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MINISTRY OF STATES

NOTIFICATIONS

New Delhi, the 7th January 1952

S.R.O. 145.—In exercise of the powers conferred by Entry 3(b) of the Table annexed to Schedule I to the Indian Arms Rules, 1951, the Central Government is pleased to specify—

1. Kr. Chhatrapal Singh, and
2. Kr. Lokendra Bahadur Singh,

members of the family of the Ruler of Bijna State for the purposes of that entry.

[No. 9-D.]

H. C. MAHINDROO, Under Secy.

New Delhi, the 7th January 1952

S.R.O. 146.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950) the Central Government hereby extends to the State of Manipur, the Assam Motor Vehicles Taxation Act, 1936 (Assam Act IX of 1936) as in force, in the State of Assam subject to the following modifications, namely:—

Modifications

1. Throughout the Act—

- (a) for the words "State Government" the words "Chief Commissioner" shall be substituted.
- (b) for the words "State of Assam" or "Assam" wherever they occur except in the title, preamble and citation, the word "Manipur" shall be substituted;
- (c) for the words, figures and brackets "Indian Motor Vehicles Act, 1914 (VIII of 1914)", the words "Motor Vehicles Act, 1939 (IV of 1939)" be substituted.

2. In section 1, for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) It shall come into force on such date as the Chief Commissioner may, by notification in the official Gazette, appoint".

3. In section 4, the second proviso shall be omitted.

4. In section 17,

for the word "Commissioner" wherever it occurs the words "Chief Commissioner" shall be substituted, and for the words and figures "Tribunal"

to be appointed under Section 296 of the Government of India Act, 1935" the words "Court of the Judicial Commissioner" shall be substituted.

5. Section 23 and the Second Schedule shall be omitted.

Annexure

The Assam Motor Vehicles Taxation Act, 1936 (Assam Act IX of 1936) as amended by the Assam Motor Vehicles Taxation (Amendment) Act, 1950 (Assam Act III of 1950) and as modified by this notification.

THE ASSAM MOTOR VEHICLES TAXATION ACT, 1936

ASSAM ACT IX OF 1936

An Act to provide for the imposition of a tax on Motor Vehicles in the Province of Assam

WHEREAS it is expedient to impose a tax on motor vehicles in the Assam Province for the purposes hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General under sub-section (3) of section 80A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Assam Motor Vehicles Taxation Act, 1936.

(2) It shall extend to the whole of the Province of Manipur.

(3) It shall come into force on such date as the Chief Commissioner may, by notification in the official Gazette appoint.

2. *Definitions.*—In this Act, unless there be anything repugnant in the subject or context:—

(a) "Certificate of registration" means a certificate of registration issued in accordance with rules for the time being in force made under the Motor Vehicles Act, 1939 (IV of 1939).

(b) "Licensing Officer" means an officer appointed by the Chief Commissioner to perform the duties and exercise the powers respectively imposed or conferred upon a licensing officer by this Act.

(c) "Local authority" means a body of municipal or station commissioners, local board or any other authority entrusted by the Government with, or legally entitled to, the control or management of municipal or local fund.

(d) "Motor Vehicle" shall have the same meaning as in the Motor Vehicles Act, 1939 (IV of 1939).

(e) "Owner" includes, in relation to a motor vehicle which is the subject of a hiring agreement or hire—purchase agreement, the person in possession of the vehicle under that agreement.

(f) "Prescribed" means prescribed by rules made under this Act.

(g) "Public Service Vehicle" means a motor vehicle let or plied for hire for the conveyance of passengers or for the carriage of goods or both.

(h) "Tax" means a tax imposed under this Act.

3. *Exemptions.*—The Chief Commissioner may by notification in the Manipur Gazette exclude either totally or partially any motor vehicle or class of motor vehicles from the operation of this Act.

4. *Imposition of tax.*—(1) Save as otherwise provided by this Act or by any rule made thereunder or by any other law for the time being in force no motor vehicle shall be used in the Manipur unless the owner thereof has paid in respect of it a tax at the appropriate rate specified in the first schedule to this Act, and, save as hereinafter specified, such tax shall thereafter be payable annually notwithstanding that the motor vehicle may from time to time cease to be used:

Provided that a motor vehicle in respect of which such tax becomes immediately payable on the date on which this Act comes into force may be so used for the period of one month from that date notwithstanding that such tax has not been paid.

(2) *Tax once paid not re-leviable for same period.*—No person shall be liable to tax during any period on account of any taxable motor vehicle in respect of which the full tax for the same period has already been paid by some other person.

5. *Payment of tax.*—Subject to the provisions of sections 6, 8 and 9, the tax under section 4 shall be payable in advance on or before the fifteenth day of April in each year by the owner of a motor vehicle on taking out and paying for a license under the provisions of this Act:

Provided that the owner of a motor vehicle shall have the option of paying the tax in four equal instalments payable on or before the fifteenth day of April, July, October and January respectively.

6. *Tax payable on first liability to tax.*—When the tax on any motor vehicle becomes payable for the first time after the commencement of a financial year, the tax payable shall be one-twelfth of the appropriate annual tax for each calendar month or part of a calendar month in respect of which the tax has become payable.

7. *Refund of tax.*—Where any person has paid the tax or any instalment or instalments of tax in respect of a motor vehicle and proves to the satisfaction of the licensing officer that the registration or renewal of registration of the vehicle in respect of which the tax has been paid has been refused or cancelled he shall be entitled:—

(a) Where registration or renewal of registration has been refused, to a refund of the amount of tax paid in respect of the whole period after the date of refusal to grant or renew registration.

(b) Where the registration of a motor vehicle has been cancelled, to a refund for each complete calendar month included in the period for which such tax or instalment has been paid and which commences after the date on which the certificate of registration has been cancelled, of an amount equal to one-twelfth of the annual rate of the tax payable in respect of such vehicle.

8. *Remission of tax for period during which vehicle is not in use.*—Where any person who has paid a tax or instalment of tax proves to the satisfaction of the licensing officer that the motor vehicle, in respect of which such tax or instalment of tax has been paid, has not been used for a continuous period of not less than three calendar months since the tax or instalment of tax was last paid, then, when the tax or instalment of tax is next payable, he shall not be liable to pay any arrear of tax in respect of any complete calendar month comprised within the paid continuous period and, if the tax or instalment of tax has been paid in respect of any complete calendar month comprised within the said continuous period, he shall be entitled, in respect of every such complete calendar month, to a deduction from the amount of tax or instalment of tax, which he would otherwise be liable to pay, of an amount equal to one-twelfth of the annual rate of tax payable in respect of the said vehicle:

Provided that if the licensing officer is satisfied that a motor vehicle is or was rendered unfit to be brought into use during the period for which the tax is next payable he may in the alternative make a refund of the amount to which the owner is entitled as rebate as aforesaid.

9. *Exemption from and remission of tax.*—When the owner of any motor vehicle in respect of which the tax or instalment of tax has been paid, has occasion to withdraw the said motor vehicle from use for the whole of the period in respect of which the tax or any such instalment is again payable, he may, in lieu of paying such tax or instalment surrender to the licensing officer his last current license relating to the said motor vehicle and shall thereupon be exempt from liability to pay the said tax or instalment of tax in respect of the said period.

10. *Declaration by person keeping vehicle for use.*—(1) The owner of every motor vehicle shall make a declaration in respect of it in the prescribed form stating the prescribed particulars and shall deliver the declaration within the prescribed time to the licensing officer and shall pay to the licensing officer the tax which he appears by such declaration to be liable to pay in respect of such vehicle.

(2) Where a motor vehicle is altered or used so as to render the owner thereof liable to the payment of an additional tax under section II, such owner shall make within the prescribed time an additional declaration in the prescribed form showing the nature of the alterations made and shall deliver it to the licensing officer and shall pay to the licensing officer the additional tax payable under section II which he appears by such additional declaration to be liable to pay in respect of such vehicle.

11. *Payment of additional tax.*—Where any motor vehicle in respect of which the tax has been paid is altered or used in such a manner as to cause the vehicle

to become a vehicle in respect of which a higher rate of tax is payable the owner thereof shall be liable to pay an additional tax of a sum which is equal to the difference between the tax already paid in respect of such vehicle and the tax which is payable in respect of such vehicle after its being so altered or used.

12. *Grant of license.*—The licensing officer shall grant and deliver to every person, who pays to him the tax or additional tax in respect of any motor vehicle, a license and a token in the prescribed form.

13. *Area over which license is valid.*—Every license granted under this Act shall be valid throughout the Province of Assam save in so far as the right to ply a motor vehicle in any area or place or over any route may be limited or regulated by or under any other enactment.

14. *License to be exhibited on vehicle.*—(1) (a) The license granted or token delivered under this Act shall be displayed in or on the vehicle in such conspicuous manner as may be prescribed by rules made under this Act.

(b) Every public service vehicle designed and used to carry more than six persons or goods or both shall display in such conspicuous manner as may be prescribed by rules made under this Act, the number of such passengers and the weight of such goods or both which the said vehicle is authorised by the licensing authority to carry.

(c) The owner of any motor vehicle which does not comply with a preceding sub-section in so far as applicable shall be punishable with fine to the extent provided in section 15.

(2) *Production of license on demand.*—Any Police officer or other officer authorised by the Chief Commissioner by notification in the Manipur Gazette may detain any motor vehicle so long as may be necessary for the purpose of examining the license referred to in sub-section (1) above.

(3) Any person in charge of a motor vehicle who refuses or wilfully neglects to stop the motor vehicle, or to produce the license for examination, in compliance with the lawful directions of such officer shall be deemed to have contravened the provisions of section 14(2) of this Act.

15. *Penalties under this Act.*—Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided in this Act for such contravention, be punishable with a fine which may extend to fifty rupees, and, in the event of such person having been previously convicted of an offence under this Act or under any rule made thereunder, with fine which may extend to one hundred rupees.

16. *Recovery of tax.*—When any person without any reasonable cause fails or refuses to pay the tax, the licensing officer may forward to the Deputy Commissioners a certificate over his signature specifying the amount of tax due from such person, and the Deputy Commissioners, on receipt of such certificate, shall proceed to recover such tax including such penalty as he may deem fit not exceeding one-half of the annual tax as if it were an arrear of land revenue.

Provided that the Deputy Commissioner shall not so proceed before the expiry of the period within which an appeal may be preferred under section 17, or, if such an appeal has been preferred, before it has been decided.

17. *Appeal.*—Any person aggrieved by an order relating to the assessment, imposition or recovery of a tax may within a period of thirty days from the date of such order prefer an appeal to the Deputy Commissioner, or, if the Deputy Commissioner is the officer who passed such order, then to the Chief Commissioner. Every order in appeal passed by a Deputy Commissioner or by a Commissioner under this section shall be final subject to the powers of revision by the Court of Judicial Commissioner.

18. *Bar to jurisdiction of Civil and Criminal Courts in matter of taxation.*—The liability of a person to pay the tax shall not be questioned or determined in any manner nor any authority other than is provided in this Act or in rules made thereunder and no prosecution, suit or other proceeding shall lie against any officer of Government for anything in good faith done or intended to be done under this Act.

19. *Compounding of offences.*—Where any person is accused of an offence under section 15, it shall be lawful for him to pay to the prescribed officer, by way of composition for such offence, a sum of money not exceeding such amount as may be prescribed, together with the amount of tax, if any, which may be due from

him. Such composition shall have the effect of an acquittal and no further proceeding shall be taken against such person in respect of such offence.

20. *Cognisance of offence.*—No Court inferior to that of a magistrate of the first class, or of a magistrate of the second class specially empowered in this behalf by the Chief Commissioner, shall try any offence punishable under this Act

21. *Omitted.*

22. *Power of Chief Commissioner to make rules.*—(1) The Chief Commissioner may, subject to the condition of previous publication, make rules for carrying into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Chief Commissioner may make rules for all or any of the following purposes, that is to say:—

- (a) Prescribing the manner and the form in which and the authority to which applications for licenses under this Act shall be presented.
- (b) Prescribing the form of any certificate, declaration, license, notice, receipt, or token, and the particulars to be stated therein; and the manner of exhibiting a license or token on a motor vehicle.
- (c) Prescribing the manner in which, and the fees on payment of which, licences granted under this Act may be transferred.
- (d) Prescribing generally the authorities by whom, and the manner in which, any duties in respect of or incidental to the carrying into effect of the provisions of this Act may be performed.
- (e) Regulating the method of assessment, payment and recovery of the tax.
- (f) Regulating the manner in which exemptions from and remissions and refunds of the tax may be claimed and granted, and the extent to which exemptions from liability to the tax may be claimed in respect of any motor vehicle brought into and used in Assam by a person visiting or making a temporary stay in Assam.
- (g) Regulating the manner in which appeals may be instituted and heard.

FIRST SCHEDULE

PART A

Vehicles other than those plying for hire or reward

Article No.	Description of Vehicle	Annual rate of tax	Quarterly rate of tax
		Rs.	Rs.
I	Cycles (including motor scooters and cycles with attachment for propelling the same by mechanical power).		
A.	Bicycles—		
	(i) not exceeding 200 lbs. in weight unladen	10	3
	(ii) exceeding 200 lbs. in weight unladen	20	6
B.	Tricycles	25	8
C.	Additional tax for trailers or side-car	6	2
II	Vehicles constructed and used solely for the conveyance of passengers and light personal luggage of passengers.		
A.	Not exceeding 35 cwt. in weight unladen	50	15
B.	(i) Exceeding 35 cwt. but not exceeding 50 cwt.	80	25
	(ii) Exceeding 50 cwt.	120	35
C.	Additional tax for trailers drawn by vehicles covered by this article.		
	(i) Light trailer	15	5
	(ii) Heavy trailer	30	9
III	Other vehicles—		
A.	Vehicles used for transport of goods only—		
	(i) Authorised to carry a load not exceeding 20 cwt.	150	45
	(ii) For every additional 10 cwt. or part thereof of authorised load	40	12

Article No.	Description of Vehicle	Annual rate of tax	Quarterly rate of tax
		Rs.	Rs.
B.	Vehicles used partly for the conveyance of passengers and their personal luggage partly for the conveyance of goods .	Article II	
(i)	The tax payable under Article II—		
(ii)	An additional tax for each person in excess of six which the vehicle is designed to carry	6	2
(iii)	An additional tax for every 10 cwt. or part thereof of authorised load of goods	15	5
C.	Tractors—		
(i)	Not exceeding 2 tons in weight	30	9
(ii)	Exceeding 2 tons in weight	60	18
D.	Additional tax for trailers drawn by vehicles covered by this article—	Article II	
(i)	Light trailer	30	9
(ii)	Heavy trailer	60	13

PART B

Vehicles plying for hire or reward

Article No.	Description of vehicle	Annual rate of tax	Quarterly rate of tax
		Rs.	Rs.
IV.	Vehicles plying for hire for the conveyance of passengers and light personal luggage of passengers.		
A.	Motor cabs and taxis	80	24
B.	Stage carriages—		
(i)	Authorised to carry more than 6 but not more than 10 persons exclusive of the driver and handyman .	100	30
(ii)	Authorised to carry more than 10 but not more than 15 persons exclusive of the driver and handyman.	120	35
(iii)	Authorised to carry more than 15 but not more than 20 persons exclusive of the driver and handyman.	150	45
(iv)	Authorised to carry more than 20 but not more than 25 persons exclusive of the driver and handyman.	250	70
(v)	For each additional seat authorised in excess of 25 persons	25	9
V.	Vehicles used for the transport of goods only—		
(i)	Authorised to carry a load and not exceeding 20 cwt. .	120	35
(ii)	For every additional 10 cwt. or part thereof of authorised load.	30	9
VI.	Vehicles authorised to ply partly for the conveyance of passengers, and their personal luggage and partly for the conveyance of goods—		
(i)	The tax payable under Article IV in respect of the authorised number of passengers seats together with an additional tax for every 10 cwt. or part thereof of authorised load of goods.	30	9
VII.	Tractors—		
(i)	Not exceeding 2 tons in weight	75	24
(ii)	Exceeding 2 tons in weight	150	45
VIII.	Trailers drawn by vehicles covered by articles under Part B.—		
(i)	Light trailer	60	18
(ii)	Heavy trailer	120	36
IX.	Vehicles authorised to ply for hire on a special route under a permit granted by the State Government.		
	The appropriate tax payable under Articles IV to VIII together with such additional fee as may be prescribed by the State Government.		

The above taxes are for motor vehicles fitted with pneumatic tyres, a 50 per cent. higher tax shall be leviable on any motor vehicle authorised to be fitted with solid or semi-solid tyres.

S.R.O. 147.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Manipur the Assam Municipal Act, 1923 (Assam Act I of 1923) as in force in the State of Assam subject to the modifications specified in the Schedule hereto annexed, namely:—

THE SCHEDULE

1. Throughout the Act, in its application to Manipur, reference to “ASSAM” whenever the word occurs, except in the title or preamble or citation or description of the Act, shall be construed as reference to Manipur and reference to the STATE Government, unless otherwise expressly provided, shall be construed as reference to the Chief Commissioner.

2. In section 1,

(i) Sub-section (2) shall be omitted.

3. Section 2 shall be omitted.

4. In section 13-A, the words “and in the case of the Shillong Municipality to the Judge Assam Valley District” shall be omitted.

5. In section 14, for the word “Passing” the word “application” shall be substituted.

6. In the second paragraph of sub-section (2), of section 52, for the word “Commissioner”, the words “Chief Commissioner” shall be substituted, and the words “in the case of the Assam Valley Division and of the State Government in the case of the Surma Valley and Hill Division” shall be omitted.

7. In section 54, for the word “Commissioner” the words “Chief Commissioner” shall be substituted and the words “in the case of the Assam Valley Division and the Deputy Commissioner in the case of the Surma Valley and Hill Division” shall be omitted.

8. In sub-section (2) of section 59, for the word “Commissioner” the words “Chief Commissioner” shall be substituted and the words “in the case of the Assam Valley Division and by the State Government in the case of the Surma Valley and Hill Division” shall be omitted.

9. In section 248, for sub-section (3), the following shall be substituted, namely:—

“(3) After complying with the notice, the owner, occupier or farmer of the market or any person interested may appeal to the Deputy Commissioner or where the Deputy Commissioner is the Chairman of Municipality, to the Chief Commissioner if he considers the notice to be unreasonable and the order of the Deputy Commissioner or of the Chief Commissioner shall be final.”

10. In clauses (b) and (e) of section 258, for the words “of (or by) the Commissioner” the words “of (or by) the Chief Commissioner” shall be substituted and the words “in the case of the Assam Valley Division and of the State Government in the case of the Surma Valley and Hill Division” shall be omitted.

11. In section 289, for the word “Commissioner” the words “Chief Commissioner” shall be substituted.

12. In section 291, for the words “The Commissioner in the case of the Assam Valley Division” the words “Chief Commissioner” shall be substituted and in the second paragraph of this section, the words “Commissioner or” shall be omitted.

13. In section 292, for the second paragraph under sub-section (3), the following shall be substituted, namely:—

The Deputy Commissioner shall forthwith report to the Chief Commissioner every case in which he uses the powers conferred on him by this sub-section whereupon the Chief Commissioner may pass such orders as he thinks fit.

14. In section 295,

(a) In sub-section (1), clauses (a), (b) and (c) shall be omitted and after the words “shall be referred”, the words “to the Deputy Commissioner” shall be added.

(b) for sub-sections (3) and (4) the following sub-sections shall be substituted, namely:—

“(3) If, in the case mentioned in clause (a), the Deputy Commissioner is a member of one of the Local authorities concerned, his functions under this section shall be discharged by the Chief Commissioner.

(4) An appeal shall lie to the Chief Commissioner against a decision of the Deputy Commissioner.”

15. In section 323,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The powers and functions of the State Government specified in the third schedule may be delegated by the State Government to the Deputy Commissioner.”

(b) in sub-section (2) for the word “Commissioner”, the words “Deputy Commissioner” shall be substituted and the words “in the Assam Valley Division” shall be omitted.

(c) in sub-section (3), the words “within the division of the Commissioner of the Assam Valley Division” shall be omitted.

16. In sub-section (4) of section 328, the proviso shall be omitted.

17. In the second schedule the word “Shillong” shall be omitted.

Annexure

The Assam Municipal Act, 1923 (Assam Act I of 1923) as amended by this notification.

THE ASSAM ACT I OF 1923 THE ASSAM MUNICIPAL ACT, 1923

WHEREAS it is expedient to make better provision for the organisation and administration of municipalities in Assam:—

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Assam Municipal Act, 1923.

(2) Omitted.

(3) It shall come into force on such date as the Local Government may by notification direct.

(4) Notwithstanding anything contained in sub-section (3), this Act shall not come into or cease to be in force in any cantonment or part of a cantonment without the previous sanction of the Governor General in Council.

2. Repeal.—Omitted.

3. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) *Board*.—“Board” means a Municipal Board;

(2) *Building*.—“Building” means a house, hut, shed or other roofed structure, for whatsoever purpose and of whatsoever material constructed, and every part thereof, but shall not include a tent, or other such portable and merely temporary shelter;

(3) *Carriage*.—“Carriage” means any wheeled vehicle with springs or other appliances acting as springs, of a kind ordinarily used for conveyance of human beings and includes bicycles and tricycles but does not include perambulators and in particular does not include any motor vehicle as defined in the Assam Motor Vehicles Taxation Act, 1936.

(4) *Cart*.—“Cart” means any cart, hackery, or wheeled vehicle with or without springs, which is not a carriage as defined in sub-section (3);

(5) *Domestic purposes*.—A supply of water for domestic purposes shall not be deemed to include a supply—

(a) for animals or for washing carriages where such animals or carriages are kept for sale or hire,

(b) for any trade, manufacture or business other than those concerned with the manufacture or supply of articles of food and drink for human beings.

(c) for fountains,

(d) for watering gardens, roads, or paths,

(e) for any ornamental or mechanical purpose,

(f) for building purposes, or

(g) for flushing purposes;

(6) *Drain*.—"Drain" includes a sewer, a house-drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel and any other device for carrying off sullage, sewage, offensive matter, polluted water, rain water, flood-water or sub-soil water;

(7) *Financial year*.—"Financial year" means the year commencing on the first day of April, or on such other date as the Local Government may by notification appoint;

(8) *Food*.—"Food" includes every article used for food or drink by man other than drugs or water, [and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes flavouring matters and condiments];

(9) *Half-year*.—"Half-year" means a half-year commencing on the first day of April or the first day of October, or on such other dates as the Local Government may by notification appoint;

(10) *Holding*.—"Holding" means land held under one title or agreement and surrounded by one set of boundaries; provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling-house, manufactory, warehouse, or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act;

Explanation.—Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this proviso.

(11) *House*.—"House" includes any hut, shop, or ware house;

(12) *House gully*.—"House gully" means a passage or strip of land constructed, set apart, or utilised, for the purpose of serving as a drain or affording access to a latrine, urinal, cess-pool or other receptacle for filthy or polluted matter to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom, and includes the air-space above such land;

(13) *Hut*.—"Hut" includes any building, whether framed or masonry, which the Board decides to be a hut, and all latrines, urinals, out-houses and other subsidiary buildings on the same premises as a hut, of whatever material they may be constructed;

(14) *Infectious or contagious disease*.—"Infectious or contagious disease" means cholera, plague, small-pox, kala azar or such other dangerous disease as the Local Government may notify in this behalf;

(15) *Inhabitant*.—"Inhabitant" used with reference to a local area means any person ordinarily residing or carrying on business or occupying immoveable property therein;

(16) *Land*.—"Land" includes (besides land) benefits arising out of land, houses, things attached to the earth, or permanently fastened to anything attached to the earth; and, includes land covered by water;

(17) *Magistrate*.—"The Magistrate" includes the District Magistrate, the Sub-divisional Magistrate and any Magistrate to whom either such Magistrate has made over any duties under this Act;

(18) *Market*.—"Market" means any place where persons periodically assemble for the sale of articles intended for food or drink or of livestock or other merchandise;

(19) *Ministerial officer*.—"Ministerial officer" means an officer whose duties are not of an administrative or executive character, but who is employed as a member of an office establishment;

(20) *Municipal Board*.—"Municipal Board" means the body of persons for the time being elected or appointed to conduct the affairs of any municipality under this Act;

(21) *Municipal Market*.—"Municipal Market" means a market belonging to or maintained by the Board;

(22) *Municipality*.—"Municipality" means any local area declared by or under this Act to be a municipality;

(23) *Nuisance*.—"Nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing or which is, or may be, dangerous to life or injurious to health or property;

(24) *Occupier*.—"Occupier" means the person for the time being in actual occupation of, or paying, or liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which the word is used, and includes a person occupying a holding or part of a holding rent-free, and an owner living in his own house;

(25) *Offensive matter*.—"Offensive matter" means dirt, dung, kitchen and stable refuse, putrid or putrefying substances, and filth of any kind not included in the term "sewage";

(26) *Owner*.—"Owner" includes—

(a) every person who is entitled for the time being to receive any rent in respect of the land with regard to which the word is used, whether from the occupier or otherwise,

(b) a manager on behalf of any such person,

(c) an agent for any such person,

(d) a trustee for any such person;

(27) *Platform*.—"Platform" as used in section 159 means any structure which is placed on, or covers, or projects over, any road or any open drain, sewer or aqueduct;

(28) *Prescribed*.—"Prescribed" means prescribed by or under this Act;

(29) *Public analyst*.—"Public analyst" means any person appointed by the Local Government to perform the duties and to exercise the powers of a public analyst as prescribed;

(30) *Public road*.—"Public road" includes a road—

(a) which is declared a public road by the Board under the provisions of section 149, or

(b) which with the consent, express or implied, of the owner of the land comprising the road has been levelled, paved, metalled, channelled, sewered or repaired out of the municipal or other public funds;

(c) which has been made or acquired by, or on behalf of, the Board;

(31) *Rates*.—"Rates" as used in section 12 means:—

(a) the tax upon inhabitants and the tax upon the annual value of holdings,

(b) the license fees on carriages, and animals and the registration fee on carts,

(c) the water-tax on the annual value of holdings,

(d) the lighting-tax on the annual value of holdings,

(e) the drainage tax,

(f) the latrine-tax on the annual value of holdings, and

(g) the tax on private markets;

(32) *Re-erect*.—The expression "re-erect," when used with reference to a building, includes—

(a) the reconstruction of a building, after more than one-half its cubical extent has been taken down or burnt down or has fallen down,

(b) the conversion of one or more huts or temporary structures into a masonry or framed building,

(c) the conversion into a place for human habitation of any building not originally constructed for human habitation, and

(d) the extension of a building;

(33) *Road*.—"Road" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right-of-way;

(34) *Rubbish*.—"Rubbish" means broken brick mortar, broken glass, or refuse of any kind whatsoever not included in the term "offensive matter";

(35) *Rule*.—"Rule" means a rule made in exercise of a power conferred by this Act;

(36) *Salaried servant*.—The term “Salaried servant of Government” does not include a retired servant of Government in receipt of a pension or the holder of any public office who is not a whole-time servant of Government;

(37) *Sewage*.—“Sewage” means night-soil and other contents of latrines, urinals, cess-pools and drains, and includes polluted water from sinks, bath-rooms, stables, cattle-sheds and other like places.

CHAPTER II

CONSTITUTION OF MUNICIPALITIES

4. Notification of intention to create, alter limits of, or abolish municipality.—

(1) The State Government may, by notification, and by such other means as it may determine, signify its intention—

- (a) to declare any town together with or exclusive of any railway station, village, building or land in the vicinity of any such town, a municipality under this Act;
- (b) to include within a municipality any local area in the vicinity of the same;
- (c) to exclude from a municipality any local area comprised therein; or
- (d) to withdraw the whole area comprised in any municipality from the operation of this Act:

Provided that no Municipality under this Act shall include any military cantonment or part of a military cantonment.

Provided also that no action shall be taken by the Provincial Government under sub-clauses (b), (c) and (d) of this sub-section, except on the recommendation of the Board at a meeting.

(2) Every notification published under sub-section (1) shall define the limits of the local area to which it relates.

5. Objection to the creation, alteration of limits, or abolition of municipality.—(1)

Any inhabitant of any part of a local area defined in a notification published under section 4 may, if he objects to anything therein contained, submit his objection in writing through the Deputy Commissioner to the State Government within forty-two days from the date of the publication, and the State Government shall take his objection into consideration.

(2) When sixty days from the date of the publication of the notification have expired, the Local Government may, by notification,

- (a) declare the local area or any specified part thereof to be a municipality under this Act, or
- (b) include the local area or any part thereof in the municipality or exclude it therefrom, or
- (c) withdraw the whole area comprised in the municipality from the operation of this Act,

as the case may be.

6. *Effect of including local area in municipality*.—When a local area is included in a municipality by a notification published under section 5, sub-section (2), all rules and bye-laws made, orders, directions and notices issued and powers conferred and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the State Government, in and by the notification, otherwise directs.

7. *Effect of excluding local area from municipality or withdrawing the whole area of municipality from Act*.—(1) When a local area is excluded from a municipality by a notification published under section 5, sub-section (2),—

- (a) this Act and all rules and bye-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto;
- (b) the State Government shall, after consulting the Board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the Board shall vest in State Government for the purposes of the State and in what manner the liabilities of the Board shall be apportioned between the Board and the Secretary of State for India in Council; and, on the publication of such scheme in the gazette, such property and liabilities shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Act by a notification published under section 5, sub-section (2), this Act and all rules and bye-laws made, orders, directions and notices issued and powers conferred thereunder, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the Board shall vest in State and the liabilities of the Board shall be transferred to the State Government.

8. Power to except municipality from provisions of Act unsuited thereto.—(1) Should the circumstances of any municipality be such that any of the provisions of this Act are unsuited thereto, the State Government may, by notification, either of their own motion after consultation with the Board or on the recommendation of the Board at a meeting specially convened for the purpose, except the municipality or any part of it from the operation of those provisions; and thereupon the said provisions shall not apply to the municipality until applied thereto by notification after consultation with the Board.

(2) While such exception as aforesaid remains in force, the State Government may make rules for the guidance of the Board and public officers in respect of the matters excepted from the operation of the said provisions.

CHAPTER III

MUNICIPAL BOARDS

Constitution of Municipal Boards

9. Constitution of Municipal Board.—There shall be established for each municipality a Municipal Board having authority over that municipality

10. Number of members.—(1) The number of members of each Municipal Board shall be such as the State Government may by notification determine in this behalf.

Provided that the number of members shall in no case be more than thirty or less than ten.

(2) The State Government may appoint Servants of the Government as [expert advisers]† who shall have the right to attend and speak at all meetings of the Board but not the right to vote. Such [expert advisers]† shall not be deemed to be members for the purposes of [this Act]†.

(3) Of the total number of members at least four-fifths shall be elected and the remainder appointed by the State Government. The State Government may, at any time, direct that all the members of any Municipal Board shall be elected.

(4) In cases where the total number of members is not evenly divisible by five the one-fifth shall be ascertained by taking the number next below the whole number which is evenly divisible by five as the number to be divided.

11. Election of members.—The election of members shall be conducted in accordance with rule.

12. Qualifications of voters.—The qualifications of voters shall be prescribed by rule:

Provided:—

(1) that no person not being a citizen of India shall, unless this restriction is removed by the State Government in the case of any person or class of persons, be entitled to vote at such election;

(2) that every person of the full age of twenty-one years, being a British subject or a subject of any State in India, who has been for a period of not less than twelve months immediately preceding the date preceding to which electoral rolls of a Municipal Election are directed to be made up and revised from time to time hereinafter referred to as "the prescribed date" resident within the limits of a municipality or an inhabitant thereof, and who—

- (i) has, during the twelve months immediately preceding, paid in respect of any rates an aggregate amount of not less than two rupees, or
- (ii) has, during the twelve months aforesaid, paid or been assessed to the tax imposed by the Indian Income-tax Act, 1922 (XI of 1922), or
- (iii) being a graduate or licentiate of any University, or having passed the Intermediate Examination of the Calcutta University or the corresponding standard of that University or any other University, or holding license granted by a Government Medical School to practise medicine,

or being a barrister, or holding a certificate authorizing him to practise as a pleader or as a mukhtar or as a revenue agent, occupies a holding, or part of a holding, in respect of which there has been paid, during the twelve months aforesaid in respect of any rates an aggregate amount of not less than two rupees, or

- (iv) is a manager or person in charge of a company or firm or business owning or occupying any land or building within the limits of the municipality, separately numbered and of which the annual value shall not be less than Rs. 50 per annum,

shall [on registration in the prescribed manner] be qualified to vote at the election of members of such municipality.

Explanation.—Notwithstanding anything provided above, rules made under this section may reduce but not increase any of the sums mentioned in the second proviso thereto.

13. Ineligibility for election.—No person shall be eligible for election as member of a Municipal Board if such person—

- (i) is not entitled to vote at the election of members of the Municipal Board, or
- (ii) has been adjudged by a competent Court to be of unsound mind, or
- (iii) is an uncertificated bankrupt or an undischarged insolvent, or
- (iv) has during the three years immediately preceding the date of the election been convicted by a Criminal Court of an offence involving a sentence of transportation or imprisonment for a period of more than six months, or of an offence under Chapter IXA of the Indian Penal Code (XLV of 1860), or served any portion of a sentence on such conviction, or has been ordered by a Criminal Court to furnish security for good behaviour under the Code of Criminal Procedure (V of 1898) unless such conviction or order has been set aside, or such offences pardoned by competent authority, or
- (v) has during the three years immediately preceding the date of election been declared by notification to be disqualified for employment in the public service, or
- (vi) has during the three years immediately preceding the date of election been debarred from practising as a legal practitioner by order of any competent authority, or
- (vii) is a salaried servant, other than a ministerial officer, of Government or is an employee of a municipality:

Provided that in cases (iv), (v) and (vi) the disqualification may be removed by an order of the State Government in this behalf.

13A. Proceedings to set aside an election.—If the validity of any election of a member is brought in question by an unsuccessful candidate or person qualified to vote at the election to which such question refers, such person may, at any time within twenty-one days after the date of the declaration of the result of the election, file a petition in the prescribed manner before the District Judge of the district within which the election has been or should have been held and shall at the same time deposit fifty rupees in Court as security for the costs likely to be incurred:

Provided that the validity of such election shall not be questioned in any such petition—

- (a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll; or
- (b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll.

13B. Procedure and powers of Judge holding enquiry.—(1) Where a petition has been filed under section 13A the District Judge, or any judicial officer subordinate to him and not below the rank of a Subordinate Judge other than an officer exercising the powers of a Subordinate Judge *ex-officio* (hereinafter referred to in this chapter as the Judge) to whom the District Judge may transfer the petition,

may after holding such inquiry as he deems necessary, in accordance with the prescribed procedure and subject to the provisions of sections 13C and 13D, pass an order confirming or amending the declared result of the election or setting the election aside.

(2) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and may also direct by whom the whole or any part of the costs of such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908 (Act V of 1908).

(3) The Judge may, at any stage of the proceedings, require the petitioner to deposit in Court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security, for the payment of the same, and if, within the time fixed by him, or within such further time as he may allow, such costs are not deposited or such further security is not furnished, as the case may be, may dismiss the petition.

(4) An appeal shall lie to the District Judge from any decision or order of a Subordinate Judge, and a decision or order of the District Judge, either when he has himself made the enquiry or on appeal, shall be final.

13C. Setting aside of election.—The Judge, if he is satisfied that the election ought to be set aside for any reasons for which an election might be rendered void under "Acts, orders, and Rules relating to elections to the Provincial legislature", shall set aside the election, and if the election is set aside for any cause which is the result of acts of a candidate or his agents may declare that candidate to be disqualified for the purpose of such fresh election as may be held under section 13G.

13D. Scrutiny of votes and declaration in other cases.—If, in any case to which section 13C does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

13E. Disqualification of persons from being candidates who commit corrupt practices.—If the Judge sets aside an election under section 13C, he may, if he thinks fit, declare any person by whom a corrupt practice has in his opinion been committed to be disqualified from being a candidate for election in that or any other municipality for a period not exceeding five years, from the date of decision, and the Judge's decision shall be final;

Provided, however, that the State Government may, by order at any time, remove such disqualification.

13F. Saving of acts done by a member before his election is set aside.—Where a candidate, who has been elected to be a member, is declared by the Judge not to have been duly elected, acts done by him in execution of the office before the time when the decision is communicated to the Board shall not be invalidated by reason of that declaration.

13G. Fresh election when election set aside.—If an election is set aside by the Judge, a date shall forthwith be fixed and the necessary steps taken for holding a fresh election for filling up the vacancy, as though it had been a casual vacancy.

13H. Bar to interference by courts in election matters.—No election of a member shall be called in question in any Court except under the procedure provided by this Act, and no order passed in any proceeding under sections 13A to 13E (both inclusive), shall be called in question in any Court and no Court shall grant an injunction—

- (i) to postpone an election, or
- (ii) to prohibit a person, declared to have been duly elected under this Act, from taking part in the proceedings of a Municipal Board of which he has been elected a member, or
- (iii) to prohibit the members formally elected or appointed to a Municipal Board from entering upon their duties.

14. Certain municipalities excluded from elective system.—Notwithstanding anything in the foregoing sections of this chapter, the State Government may, by notification, direct that any municipality constituted after the application of this Act shall, for such period as the State Government thinks fit, be included in the first schedule and that all the members of the Municipal Board of such municipality shall be appointed by the Local Government, or that any proportion of such members shall be so appointed and the remainder elected. The Local Government may also by notification include in the said schedule for such period as it thinks fit the name of any municipality the Board whereof has been re-established under the provisions of section 294 after a period of supersession. The Local Government may at any time remove the name of any municipality from the said schedule.

15. Omitted.

16. Taking of oath.—Every person who is elected or appointed to be a member of a Board shall before taking his seat make at a meeting of the Board an oath or affirmation of his allegiance to the Union of India in the following form, namely:—

“I, A.B., having been elected a member of this Board do solemnly swear (or affirm) that I will bear true faith and allegiance to the constitution of India as by law established, and I will faithfully discharge the duty upon which I am about to enter.”

17. General election and term of office of members.—(1) Upon the establishment or re-establishment of a Board in any municipality and thereafter at intervals of not less than three nor more than four years between the dates of completion, there shall be held a general election for all seats requiring to be filled by election.

(2) The Chief Commissioner shall cause the results of the general election to be published in the gazette and the date of the gazette containing the publication shall be deemed to be the date of completion of the general election.

(3) Except as otherwise provided in this Act, the term of office of any member of the Board shall run from the date of the first meeting of the Board held after his election or appointment to the date of the first meeting of the Board held after the next general election including the former but excluding the latter of these dates.

18. Expiration of term of office of members.—The State Government may within six months of the commencement of this Act by an order in writing direct that the term of office of the members of any Board shall expire on such date as may be appointed in such order, and the term of office of such members shall expire on the date so appointed.

19. Resignation of members.—A member, other than the Chairman or Vice-Chairman, may resign by intimating in writing his intention to do so to the Chairman, who shall forthwith lay such intimation before the Board at a meeting, and, on such resignation being accepted by the Board, he shall be deemed to have vacated his office.

20. Removal of members.—(1) The [State Government] may remove any member—

- (a) if he ceases to be an inhabitant of the municipality, or
- (b) if he refuses to act or becomes incapable of acting as a member, or if within such time as the [State Government] considers reasonable he fails to make the oath or affirmation prescribed by section 16, or
- (c) if without an excuse sufficient in the opinion of the [State Government] he absents himself from six consecutive meetings of the Board, or
- (d) if, where he is a salaried servant of Government his continuance in office is, in the opinion of the [State Government], undesirable, or
- (e) if, being a legal practitioner, he appears against the Board before any Court in his professional capacity in any case instituted against the Board, or
- (f) if he becomes subject to any of the disabilities stated in clauses (ii), (iii), (iv), (v) and (vi) of section 13, or
- (g) if he has, within the meaning of section 48, knowingly acquired or continued to hold without the permission in writing of the State Government, directly or indirectly, or by a partner, any share or interest in any contract or employment with, by, or on behalf of the Board:

(2) The State Government may, after consultation with the Board, remove any member if his continuance in office is, in its opinion, dangerous to the public peace or order or likely to bring the administration of the Board into contempt.

Provided that no member shall be [removed under sub-section (1) or sub-section (2)] unless he has been given an opportunity of showing cause against such order of removal.

20A. Eligibility for election or re-election of members removed from office.—No member of a Board who has been removed from his office under clause (b), (c), (d), (e), (f), or (g) of sub-section (1) or under sub-section (2) of section 20 shall be eligible for election or re-election as a member without the consent of the Local Government.

21. Filling of casual vacancies.—If any member, appointed and elected, shall be unable to enter upon or complete his term of office, the vacancy shall be filled by appointment or election, as the case may be.

21A. Power to appoint members if prescribed number not duly elected.—If the persons entitled to elect a member or members to a Board at any election under this Act fail, within the prescribed time, duly to elect the member or the full number of members required, the State Government may, notwithstanding anything contained in section 10 or section 14, appoint a member or members to make up the deficiency.

22. Incorporation of Municipal Board.—The Municipal Board of every municipality shall, by the description of "The Municipal Board of.....," be a body corporate, and have perpetual succession and a common seal, and in such name shall sue and be sued.

23. Application to member of Board of the term Municipal Commissioner.—The term "Municipal Commissioner," wherever it occurs in any enactment extending to Assam shall include a member of a Board nominated or elected under this Act.

Chairman and Vice-Chairman

24. Appointment or election of Chairman and election of Vice-Chairman.—(1) The State Government shall appoint the Chairman of the Board of every municipality mentioned in the second schedule of this Act. It shall be lawful for the State Government by notification to include in or remove from the said schedule the name of any municipality provided that the name of any municipality previously in existence and not included in the said schedule shall not be included in the same unless an order under section 293 has been or might have been passed in respect of such municipality. If a Chairman is appointed by official designation, the person for the time being holding the office shall be Chairman.

(2) [Subject to the provisions of section 301.] the members of the Municipal Board of every municipality the name of which is not included in the said schedule shall at a meeting elect one of their own number other than a servant of the Government appointed under sub-section (3) of section 10, to be Chairman and the member so elected shall, if approved by the State Government, become Chairman and pending the orders of the State Government.....** shall be competent to discharge the duties of his office as Chairman:

Provided that [subject as aforesaid] they may, at a meeting attended by not less than two-thirds of such members, request the State Government to appoint a Chairman, and such Chairman shall be appointed by name.

(3) The said members shall at a meeting elect one of their own number, other than an officer of Government appointed under sub-section (3) of section 10, to be Vice-Chairman.

(4) The approval by the State Government of any person elected as Chairman under sub-section (2) shall be conclusive proof that he was duly elected as such, provided that no such approval shall be accorded until a period of six weeks has elapsed from the date of the election.

25. Status and tenure of office of Chairman and Vice-Chairman.—(1) Notwithstanding anything contained in section 10, every Chairman appointed under the last preceding section, if not already a member of the Municipal Board of which he shall have been appointed Chairman, shall, from the date of his appointment, during the term of his office, enjoy subject to the provisions of section 36 all the rights and privileges of a member of the Municipal Board to which such appointment relates, but shall not be reckoned in calculating the proportion of one-fifth under the provisions of section 10, sub-section (3).

(2) Except as otherwise provided in this Act, every Chairman, whether appointed or elected, and every Vice-Chairman, shall hold office [from the date of his appointment or election, to the date of the first meeting of the Board after the next general election, including the former but excluding the latter of these dates,] and shall be eligible for re-appointment or re-election.

26. * * * * *

27. **Resignation and removal of Chairman and Vice-Chairman.**—(1) A Chairman of a Municipal Board wishing to resign may forward his written resignation to the Deputy Commissioner. On the resignation being accepted by the Board at a meeting, or on receipt by the Board, of information that the resignation has been accepted by the State Government where the Chairman has been appointed by the State Government, and on the appointment or election of a Successor such Chairman shall be deemed to have vacated his office.

(2) A Vice-Chairman wishing to resign may intimate in writing his intention to do so to the Chairman. On his resignation being accepted by the Board at a meeting, and on the election of a successor, he shall be deemed to have vacated his office.

(3) The State Government may at any time remove a Chairman appointed by it.

(4) A Chairman elected under section 24 may at any time, with the approval of the Local Government, and a Vice-Chairman without such approval, be removed from his office by a resolution of the Board in favour of which not less than two-thirds of the whole number of the members shall have given their votes at a meeting specially convened for the purpose.

28. **When Chairman and Vice-Chairman ceases to hold office as such.**—When a member who holds the office of Chairman or Vice-Chairman ceases for any reason whatever to be member, he shall at the same time cease to hold the office of Chairman or Vice-Chairman.

28A. **When Commissioner may appoint Chairman.**—Whenever from any cause the office of Chairman is vacant in any Board, and the State is of opinion that delay in the election or appointment of a successor is causing or is likely to cause inconvenience, it may appoint any person to be Chairman during the interval.

29. **Powers of Chairman.**—(1) The Chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the Board:

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Board at a meeting, or exercise any power which is directed to be exercised by the Board at a meeting.

(2) [Notwithstanding anything contained in sub-section (1)] the Chairman may, in cases of emergency, direct the execution of any work or the doing of any act which the Board at a meeting is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act incurred as the emergency may require shall be paid for from the municipal fund:

Provided that he shall forthwith report the action taken under this section and the reasons therefor to the Board at a meeting.

30. **Delegation of duties and powers by Chairman to Vice-Chairman or an executive officer.**—The Chairman may, by a written order, delegate to the Vice-Chairman or with the approval of the Board at a meeting to the Secretary, Health Officer, or Engineer, or other officer of the Board, or to a fit member of the Board, all or any of the duties or powers of a Chairman as defined in this Act, subject to such restrictions as may seem fit to him, and may by a written order withdraw or modify such duties or powers:

Provided that nothing done by the Vice-Chairman, which might have been done under the authority of a written order from the Chairman, shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the Chairman previously or subsequently obtained.

31. **Grant of leave to Chairman or Vice-Chairman.**—The Board at a meeting may grant leave of absence to its Chairman or Vice-Chairman for any period not exceeding three months in any one year.

31A. **Filling of casual vacancies.**—If any Chairman or Vice-Chairman of a Board shall be unable to complete his full term of office or shall avail himself of leave granted under section 31, the vacancy caused by his resignation, or removal, or death or absence on leave shall, subject to the provisions of section 24, be filled by appointment or election, as the case may be, and the person so appointed or elected shall fill such vacancy for the unexpired remainder of the term for which such Chairman or Vice-Chairman would otherwise have continued in office or during his absence on leave, as the case may be.

32. Allowances of Chairman and Vice-Chairman.—The Chairman and Vice-Chairman of any municipality may, if the Board thinks fit, receive such allowances out of the municipal fund as shall from time to time be fixed by the Board at a meeting.

And in the case of a salaried Chairman or Vice-Chairman, the Board may grant such leave allowance as it may from time to time determine at a meeting.

Provided that the allowance so granted together with the acting allowance, if any, of the officiating incumbent shall not exceed the salary fixed for the office:

Provided further that the grant of allowances to a Chairman or Vice-Chairman shall be subject to the approval of the Local Government.

Conduct of business

33. Ordinary and special meetings.—(1) Ordinary meetings of the Board shall be held at least once a month. If there be no business to be laid before the Board at any monthly meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each member 3 days before the date which is appointed for the monthly meeting.

(2) The Chairman, or, in his absence, the Vice-Chairman, may call a special meeting whenever he thinks fit and shall call one on a requisition signed by not less than three of the members.

(3) If the Chairman or the Vice-Chairman fails to call a special meeting within fifteen days after any such requisition has been made, the meeting may be called by the persons who signed the requisition.

34. Publicity of meetings.—Every meeting shall be open to the public unless the President thereof considers that the public should be excluded during the whole or any part of the meeting.

35. Chairman of meeting.—[Subject to the provisions of section 301] the Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the members shall choose some one of their number to preside.

[Provided that no candidate for election to the office of Chairman or Vice-Chairman shall preside at the election.]⁴

36. Manner of deciding questions.—Save as otherwise provided in or under this Act,—

- (a) all questions at a meeting of the Board shall be determined by a majority of votes of the members present including the President.
- (b) In the case of equality of votes, on any question other than the election of the Chairman or the Vice-Chairman, the President, if there is one, shall have a second or casting vote.
- (c) In the case of equality of votes in the election of Chairman, Vice-Chairman or President, the determination shall, subject to rule, be by the drawing of lots:

Provided that an official appointed as Chairman under section 24 shall not have the right to vote save for the purpose of giving a Casting vote under this section.

37. Quorum.—No business shall be transacted at any meeting of the Board unless such meeting has been called by the Chairman or Vice-Chairman, or, under section 22, sub-section (2), by persons signing a requisition, nor unless a quorum shall be present. The quorum necessary for the transaction of business at a meeting shall be one-half of the total number of members of the Board when any of the following subjects are to be disposed of at such meeting:—

- (i) Scale of establishment and salaries.
- (ii) The framing of bye-laws under section 297 and of subsidiary rules under section 301 of the Act.
- (iii) The annual budget estimate.
- (iv) The appointment or the fixing of the pay or allowance of a paid Secretary, Engineer, Health Officer or Assessor.
- (v) The election of Chairman or Vice-Chairman.
- (vi) The raising of a loan.
- (vii) The subject of a meeting specially convened as provided in section 8.
- (viii) Any other subject prescribed by a subsidiary rule made in this behalf by the Board under the provisions of section 301(1).

For all other business the quorum shall be one-third of the total number of members.

If at any meeting the prescribed quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the President and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum whatever their number may be.

38. Minute of proceedings.—(1) Minutes of the proceedings of all meetings of the Board shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting and shall be published in such manner as may be prescribed and shall, at all reasonable times and without charge, be open to the inspection of the tax-payers.

(2) A copy of the minutes of the proceedings of all meetings of the Board shall be forthwith forwarded by the Board to the Deputy Commissioner.

Contracts.

39. Execution of contracts.—(1) The Board may enter into and perform any contract necessary for the purposes of this Act.

(2) Every contract made by or on behalf of a Municipal Board in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the Board at a meeting, and shall be in writing, and signed by at least two of the members one of whom shall be the Chairman or Vice-Chairman, and shall be sealed with the common seal of the Board.

Unless so executed, such contract shall not be binding on the Board.

Power to purchase, etc.

40. Power to purchase, lease and sell lands.—The Board at a meeting may purchase or take on lease or by gift any land for the purposes of this Act, and may sell, let, exchange or otherwise dispose of any land not required for such purposes.

Committees.

41. Appointment of committees.—(1) Subject to rule, the Board at a meeting may appoint from among its members or, if it so desires, from among its members and the residents (or voters) of the municipality not being members, committees to assist it in the discharge of any special duties or class of duties devolving upon it under this Act, within the whole or any portion of the municipality, and may delegate to any such committee all or any of its powers which may be necessary for the purpose of rendering such assistance, or withdraw all or any of such powers.

(2) The members of such committees shall be liable to all the obligations imposed by this Act on the members of the Board in respect of such powers as may be delegated to them.

(3) All the proceedings of any such committee shall be subject to confirmation by the Board at a meeting.

42. Removal, resignation and appointment of members.—All questions connected with the removal or resignation of members of committees shall be settled by the Board at a meeting.

Joint-committees.

43. Formation of joint-committees.—(1) Any Municipal Board may join with any other Municipal Board or with any Local Board or with any cantonment authority, or with more than one such Municipal or Local Board or cantonment authority, in constituting out of their respective Boards a joint-committee consisting of not more than two members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such joint-committee any power which might be exercised and which can be lawfully delegated by either or any of the Municipal or Local Boards or cantonment authorities concerned.

(2) Such joint-committee may from time to time make rules as to the proceedings of any such joint-committee and as to the conduct of correspondence relating to the purpose for which such joint-committee is constituted.

Establishment.

44. Appointment and pay of establishment.—The Board at a meeting may, from time to time, determine and appoint the establishment to be employed by it and may fix the salaries and allowances to be paid to such establishment:

Provided that the appointment of any officer whose pay is wholly or partly contributed by the Local Government shall not be created or abolished without

the sanction of the Local Government and that every nomination to, or dismissal from, any such appointment shall be subject to confirmation by the Provincial Government.

45. Limitation of powers regarding grant of leave, etc.—Notwithstanding anything contained in section 44, the amount of leave or leave allowance which the Board may grant to any member of their establishment and the conditions on which such leave or allowance may be granted, or the amount of pension or gratuity which it may grant to any such member or to any member of the family of such member, as aforesaid, shall not, without the special sanction of the State Government, be more favourable than those prescribed for servants of Government of a similar grade by the conditions of their service under the Government.

46. Appointment of Health Officers and Sanitary Inspectors.—Notwithstanding anything contained in section 44, the Local Government may require the Board, after considering any cause that it may show to the contrary,—

- (a) to appoint such Health Officers and Sanitary Inspectors as it may think necessary on such salaries as it may fix; or
- (b) to employ such officers of Government as Health Officers and Sanitary Inspectors as it may think necessary.

Liability of Members of Boards and Committees.

47. Personal liability of members of Board or Committee.—Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the Board, if such loss, waste or misapplication is a direct consequence of his wilful neglect or misconduct while a member of a Board or a committee, and a suit for compensation for the same may be instituted against him by the Board, with the previous sanction of the State Government or by the Government.

48. Disqualification of members having share or interest in contracts.—No member of a Board or a committee shall have without the written permission of the Provincial Government, directly or indirectly, any share or interest in any contract of any kind whatsoever to which the Board is a party, or shall hold any office of profit under it, and if any member shall have such share or interest or shall hold such office he shall thereby become disqualified to continue in office as a member, and shall be liable to a fine not exceeding five hundred rupees:

Provided that a member shall not be so disqualified or liable by reason only—

(1) of his having a share or interest in—

- (a) a contract entered into between the Board and any incorporated or registered company of which such member is a member or shareholder; or
- (b) any lease, sale or purchase of land or any agreement for the same; or
- (c) any agreement for the loan of money, or any security for the payment of money only; or
- (d) any newspaper in which any advertisement relating to the affairs of the municipality is inserted; or

(2) of his being professionally engaged on behalf of the Board as a legal or medical practitioner and receiving a fee for services rendered in his professional capacity.

But no member shall act as a member of a Board or committee in any proceedings relating to any matter in which he is so interested or take any part therein.

48A. Removal of disqualification.—The State Government may, by an order in that behalf, remove any disqualification or liability mentioned in section 48.

49. Members disqualified from voting on certain questions.—No member of a Board or a committee shall vote on any matter affecting his own conduct or pecuniary interest, or on any question which regards exclusively the assessment of himself, or the valuation of any property in respect of which he is directly or indirectly in any way interested, or of any property of or for which he is manager or agent, for his liability to any tax.

Validity of acts and proceedings

50. Presumptions and savings.—(1) No disqualification, or defect in the election or appointment, of a person acting as a member of a Board or a committee or a joint-committee appointed under this Act or as the President of a meeting of the Board or of such committee or joint-committee shall be deemed to vitiate any act or proceeding of the Board or of the committee or the joint-committee, if the

majority of the persons present at the time of the act being done or proceeding being taken were qualified and duly elected or appointed members of the Board or the committee or the joint-committee.

(2) Until the contrary is proved, any document or minutes which purport to be the record of the proceedings of the Board or committee or joint-committee shall if substantially made and signed in the manner prescribed for the making and signing of the record of such proceedings, be deemed to be a correct record of the proceedings of a duly convened meeting held by a duly constituted Municipal Board or committee or joint-committee, whereof all the members were duly qualified.

(3) The powers of the Board or of any committee or joint-committee may be exercised notwithstanding any vacancy in their number.

(4) Accidental omission to serve notice of a meeting on any member of a Board or committee or joint-committee shall not affect the validity of a meeting of the Board or of the Committee or joint-Committee.

CHAPTER IV.

MUNICIPAL FINANCE AND PROPERTY.

Municipal Fund

51. Constitution and custody of municipal fund.—(1) There shall be formed, for each Municipal Board, a fund, to be called the "municipal fund".

(2) There shall be placed to the credit thereof:—

(a) the balance, if any, standing at the credit of the Board at the commencement of this Act;

(b) all sums received by, or on behalf of, the Board under this Act or otherwise;

(3) The municipal fund shall be vested in the Board.

(4) Unless the State Government shall otherwise direct, the municipal fund shall be paid into a Government treasury or into any bank or branch bank used as a Government treasury in or near to the municipality, and shall be credited to an account called the account of the municipality to which it belongs:

Provided that the Board may invest any money not required for immediate use either in Government securities or in any other form of security which may be approved of by the Provincial Government.

52. Application of fund.—(1) The Board shall set apart and apply out of the municipal fund,—

(a) firstly, such sum as may be required for the payment of the interest which may fall due on any loan legally contracted by the Board and for the formation of a sinking fund when required;

(b) secondly, such sum as may be required to meet the charges of its own establishment, including, in the case of Government officers whose services are wholly or partly employed by the Board, the payment of such contribution to the pensions, gratuities, provident fund and leave allowances as may be required by the conditions of their service, under the Government to be made by them or on their behalf for the time being in force or under such orders as the State Government may make;

(c) thirdly, such sum as may be required to pay the expenses of pauper lunatics and lepers who are inhabitants of the municipality and are sent to public asylums from the municipality, and as ought, in the opinion of the State Government, to be paid by the Board.

(2) Subject to the charges specified in sub-section (1), the Board at a meeting shall, as far as the municipal fund permits, from time to time cause roads, bridges, tanks, ghats, wells, channels, drains, latrines and urinals being the property of the board, to be maintained and repaired, and the municipality to be cleansed;

and may apply the municipal fund to any of the following purposes within the municipality, and with the sanction of the Chief Commissioner outside the municipality, that is to say,—

(i) the construction, maintenance and improvement of roads, bridges, squares, gardens, tanks, ghats, wells, drains, latrines and urinals;

(ii) the planting and reservation and felling of trees and bamboos;

- (iii) the supply of water, and the lighting and watering of roads;
- (iv) the erection and maintenance of town halls offices and other buildings required for municipal purposes;
- (v) the payment of a gratuity or pension to any officer or servant in its employ, or to any member of the family of such officer or servant who has died from disease or injury contracted in the discharge of the duties of his office;
- (vi) the establishment and maintenance of a municipal market, or the taking of a market on lease.
- (vii) the establishment and maintenance of schools, and of hostels to be used in connection with such schools, either wholly or by means of grants-in-aid and the grant of stipends and scholarships;
- (viii) the establishment and maintenance of hospitals and dispensaries and, at the discretion of the Board, the payment of allowances to medical practitioners for professional services rendered to the establishments employed by it;
- (ix) the payment of the expenses of any of the poorer inhabitants of the municipality for journeys to and from any hospital established in any part of India for the treatment of special diseases and of their subsistence thereat according to such scale as may be fixed by the Board at meeting;
- (x) the employment of public vaccinators and the promotion of free vaccination;
- (xi) the acquiring and keeping of open spaces for the promotion of physical exercise and recreation;
- (xii) industrial, agricultural and other technical training and the training and employment of medical practitioners and of veterinary practitioners;
- (xiii) the establishment and maintenance of veterinary dispensaries for the reception and treatment of horses, cattle and other animals;
- (xiv) the payment of contributions towards any public fund raised for the relief of human suffering within or without the municipality;
- (xv) the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals;
- (xvi) the improvement of the breed of horses and cattle and the breeding of mules;
- (xvii) the establishment and maintenance of, or the granting of aid to, free public libraries and reading rooms;
- (xviii) the maintenance of the fire-brigade;
- (xix) the provision of burial and burning grounds and the burial or burning of paupers;
- (xx) the taking of a census other than a census ordered by the Central Government;
- (xxi) the holding of fairs and industrial exhibitions;
- (xxii) the payment of rewards for the destruction of noxious animals or diseased or unclaimed dogs;
- (xxiii) the establishment and maintenance of grazing grounds for cattle;
- (xxiv) such measures as may appear to the Board to be necessary during the prevalence of diseases;
- (xxv) the establishment and maintenance of benches for the trial of offences under this Act or any bye-laws made thereunder;
- (xxvi) the establishment and maintenance of dairies;
- (xxvii) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants;
- (xxviii) the payment of contributions by the Board to any other local authority;
- (xxix) the payment of advances to members of the establishment employed by the Board or on their behalf for the purpose of enabling them to acquire or construct residences for themselves and to purchase means of conveyance required for the performance of their duties;

(xxx) all purposes expenditure whereon may be declared by the Board, with the sanction of the Local Government, to be an appropriate charge on the municipal fund; and

(xxxi) generally, the carrying out of the purposes of this Act:

Provided that the net proceeds of the taxes imposed under section 59, sub-section (1), (c), (d), (e) and (f), after deducting a proportionate share, to be fixed by the Board in meeting, of the cost of the staff employed in collecting and in supervising the collection of the taxes and in keeping and in auditing the accounts thereof, shall be applied in defraying the expenses respectively of making, extending, improving or maintaining the water-supply; of making, extending, improving or maintaining the lighting system; of cleansing latrines, urinals and cess-pools, and of constructing, extending, improving or maintaining the drainage system:

Provided also that no money which has been received by the Board on account of any hospital or dispensary or directed by it to be applied to the establishment or maintenance of any hospital or dispensary, shall be expended on any other object.

(3) The Board may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of sub-section (2)

53. Expenditure for construction of railways and tramways.—The Board may,—

- (a) with the sanction of the State Government, make payment for constructing and maintaining within or partly within and partly without the municipality either by itself or in combination with any other local authority a railway or tramway under the provisions of any law for the time being in force in the province of Assam relating to the construction and maintenance of railways or tramways;
- (b) with the sanction of the State Government, guarantee the payment from the municipal fund of such sum as it thinks fit as interest on capital expended on any railways or tramways which may directly improve the means of communications within the municipality or between the municipality and any adjoining local area:

Provided that no application for sanction in regard to the matter specified in sub-clauses (a) and (b) shall be made unless it is authorised by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which not less than two-thirds of the members voted, and that the amount which the Board shall pay or contribute in regard to the matters specified in the aforesaid sub-clauses in respect of railways or tramways constructed and maintained partly within and partly without the municipality shall be proportionate to the benefit received.

54. Orders for payment of money from the municipal fund.—Unless the Chief Commissioner shall expressly extend, as he is hereby empowered to do on the recommendation of the Board at a meeting, the limit of the powers of the chairman in this behalf, all orders for the payment of money from the municipal fund if for a sum not above five hundred rupees shall be signed by the Chairman or Vice-Chairman, and all orders for larger sums by both of the said officers or by one of the said officers and another member of the Board.

No such order shall be issued otherwise than for the payment of money of which the expenditure has been authorised, subject to rule, by the board at a meeting.

55. Municipal property.—(1) Subject to any special reservation made by the State Government, all property of the nature hereinafter in this section specified and situated within the municipality shall vest in and belong to the Board and shall with all other property of what nature or kind soever which may become vested in the Board be under its direction, management and control, that is to say:—

- (a) all public roads including the soil, the pavements, stones and other materials thereof, and all drains, bridges, trees, erections, materials, implements and other things provided for such roads;
- (b) all public streams, channels, water-courses, springs, tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works, whether made, laid or created at the cost of the Board or otherwise and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto and also and adjacent land not being private property appertaining to any public tanks;
- (c) all public sewers and drains, and all works, materials and things appertaining thereto and other conservancy works;

- (d) all sewage, rubbish and offensive matter collected by the Board from roads, latrines, sewers, cess-pools and other places;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto, and all public gates, markets, slaughter houses and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (f) all land or other property transferred to the Board by the Government or acquired [by the board] by gift, purchase or otherwise for local public purposes.

‡(2) The State Government may, by notification in the local official Gazette, direct that any property which has vested under sub-section (1) in the Board shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Local Government may pass such orders as it thinks fit regarding the disposal and management of such property.

56. Transfer certain public institutions to Boards.—(1) Every hospital, dispensary, school, rest-house, ghat and market, not being private property or the property of a religious institution or society, and all medicines, furniture, and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may, by order of the State Government duly published on the spot, be vested in the Municipal Board of such municipality; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such Board as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Gazette and within the Municipality.

(2) If the Board at a meeting shall, after the publication of the aforesaid notice, object to the transfer to itself of any hospital, dispensary, school, rest-house, ghat or market, on the ground that its funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Board at a meeting may agree to accept.

57. Transfer of private roads, etc., to Boards.—The Board at a meeting may agree with the person in whom the property in any road, bridge, tank, ghat, well, channel or drain is vested, to take over the property therein or the control thereof, and after such agreement may declare by notice in writing put up thereon or near thereto that such road, bridge, tank, ghat, well, channel or drain has been transferred to the Board. Thereupon, the property therein or the control thereof, as the case may be, shall vest in the Board.

58. Acquisition of land.—When any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the State Government may, at the request of the Board, proceed to acquire it under the provisions of the Land Acquisition Act, 1894 (I of 1894); and on payment by the Board of the compensation awarded under that Act, and of any other charges incurred in acquiring the land, the land shall vest in the Board.

CHAPTER V.

MUNICIPAL TAXATION

Imposition of taxes.

59. Taxes.—(1) [Subject to the provisions of this Act and the rules made thereunder] the Board may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, impose within the limits of the municipality the following taxes, fees and tolls, or any of them:—

- (a) a [general] tax payable by the owner, on [the annual value of] holdings situated within the municipality;
- (b) Omitted.
- (c) a water-tax payable by the occupier, on the annual value of holdings;
- (d) a lighting-tax, payable by the occupier, on the annual value of holdings;
- (e) a latrine-tax, payable by the occupier, on the annual value of holdings;
- (f) a drainage-tax, payable by the owner, where a system of drainage has been introduced;
- (g) a tax on private markets payable by the owner;

- (h) license fees on carriages and animals used for riding, driving or burden;
- (i) a fee on the registration of carts;
- (j) [a fee, on such conditions and on such scale as may be prescribed by rule by the State Government for each municipality, on boats, including steam boats, and other vessels, mooring within the municipality;]
- (k) tolls on bridges and metalled roads;
- (l) with the sanction of the State Government any other tax.

(1)

(ii) that both the taxes mentioned in clauses (a) and (g) shall not be imposed in respect of the same premises; and

(iii) that when the Board has taken a loan from or guaranteed by the Local Government, the Board shall not, without the previous consent of the Local Government, make any alteration in respect of any tax which may have the effect of reducing the income of the Board.

(2) The Board may, from time to time at a meeting convened as aforesaid, and in accordance with a scale of fees to be approved by the Chief Commissioner of the Division, charge a fee in respect of the issue and the renewal of any license which may be granted by the Board under the Act and in respect of which no fee is leviable under sub-section (1).

(3) Nothing in this section shall authorise the imposition of any tax which the Provincial Legislature has no power to impose in the province under the Constitution:

Provided that a Board immediately before the commencement of the Constitution was lawfully levying any such tax under this section as in force, may continue to levy the tax until provision to the contrary is made by the Parliament.

60. Special provision regarding tax on holdings.—The tax mentioned in section 59, sub-section (1) (a), shall not be imposed on any holding of which the annual value is less than six rupees.

61. Special provisions regarding water-tax.—(1) The imposition of a tax under section 59, sub-section (1) (c) shall be subject to the following restrictions, namely:—

- (a) that the tax shall be imposed only on holdings situated within an area for the supply of water to which a scheme has been approved by the State Government;
- (b) that the tax shall not be levied on land used exclusively for purposes of agriculture, or on any holding consisting only of tanks, or on any holding no part of which is within a radius to be fixed by the State Government for each municipality from the nearest standpipe or other supply of water provided by the municipality and available to the public;
- (c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for water supplied from the works under special contract or otherwise shall not exceed the amount required for making, extending, improving or maintaining the water-supply; and
- (d) that the tax shall not be leviable until a supply of water shall have been provided in the area to be so supplied; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such water-supply:

Provided that nothing in this section shall prevent the Board from making any special arrangement consistent with this Act with persons residing beyond the radius fixed by the State Government.

(2) The amount of the tax may vary with the distance of holdings from the nearest standpipe or other sources of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.

(3) The board, at its discretion, may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, dockyard, workshop, coolie depot, school, hospital, market, court-house, jail, reformatory, lunatic asylum, or other similar place, for a certain sum to be paid by such person in lieu of the tax.

62. Special provisions regarding lighting tax.—The imposition of a tax under section 59, sub-section (1) (d), shall be subject to the following restrictions, namely:—

- (a) that the tax shall be imposed only on holdings situated within an area for the lighting of which by electricity, gas, or other means a scheme has been approved by the State Government;
- (b) that the tax shall not be levied on land used exclusively for purposes of agriculture;
- (c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the tax, together with the estimated income supplied from the works under special, not exceed the amount required for making, extending, improving or maintaining the lighting system; and
- (d) that the tax shall not be leviable until the lamps in the area to be lighted shall have been lighted; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to such lighting.

63. Special provisions regarding latrine-tax.—(1) The imposition of a tax under section 59, sub-section (1) (e), shall be subject to the following restrictions, namely:—

- (a) that the tax shall be imposed only on holdings containing dwelling houses, shops, places of business, latrines, urinals [or] cess pools;
- (b) that the tax shall not be imposed on any jail, reformatory, lunatic asylum, [school or hospital] in which an establishment is maintained for the cleansing of latrines, urinals and cess-pools therein without making use of any place or receptacle maintained by the Board for the deposit of sewage or offensive matter;
- (c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for cleansing latrines, urinals and cess-pools, and
- (d) that the tax shall not be leviable in any area until the Board has made provision for the cleansing of latrines, urinals and cess-pools, within such area; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the making of such provision.

(2) (a) The Board, at its discretion, may compound for any period not exceeding one year with the person liable to pay the tax on any railway premises or any premises used as a factory, godown, workshop, coolie depot, school, hospital, market, court-house or other similar place, for a certain sum to be paid by such person in lieu of the tax.

(b) In the case of the premises or places specified above, the Board may, in lieu of levying the tax on the annual value of the holding, levy it at a rate per head to be fixed by the said Board at a meeting on the number of persons living within or habitually resorting to such premises or places.

64. Special provisions regarding drainage tax.—The imposition of a tax under section 59, sub-section (1) (f), shall be subject to the following restrictions, namely:—

- (a) that the tax shall be imposed only in case of places situated within an area for which a scheme for construction of a drainage system has been approved by the Local Government,
- (b) that the tax shall not be levied on land used exclusively for purposes of agriculture,
- (c) that in fixing the amount or amounts of the tax regard shall be had to the principle that the total net proceeds of the tax shall not exceed the amount required for constructing, extending, improving or maintaining the system of drainage, and
- (d) that the tax shall not be leviable until a system of drainage shall have been made in the area to be so provided; nor shall the tax be leviable for any quarter or portion of a quarter antecedent to the provision of such a system of drainage.

65. Special provision regarding tax on private markets.—The tax mentioned in section 59, sub-section (1) (g), shall not exceed seven and a half per centum on the net annual profits derived by the owners of private markets therefrom.

*Taxes upon the annual value of**Preparation of valuation list and assessment register.*

66. Board to determine the valuation of holdings.—When it has been determined that any tax shall be imposed on the annual value of holdings situated within the municipality, the Board, after making such enquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided, and shall cause the same to be entered in a list called the valuation list, which shall be prepared in the prescribed form:

67 and 68. Omitted.

69. Returns required for ascertaining annual value.—The Board, in order to prepare the valuation list may, whenever they think fit, by notice, require the owners or occupiers of all holdings to furnish them with returns of the rent or annual value thereof and a description of the holdings in such detail as the Board may direct; and the Board, or any person authorised by it in writing in that behalf, at any time between sunrise and sunset, may enter, inspect and measure any such holding after having given forty-eight hours' previous notice of its intention to the occupier thereof.

70. Penalty for default in furnishing return.—Whoever refuses or fails to furnish any such return for the space of a fortnight from the day on which he shall have been required to do so, or knowingly makes a false or incorrect return, shall be liable to a fine not exceeding twenty rupees, and to a further daily fine not exceeding five rupees for each day during which he shall omit to furnish a true and correct return, and whoever hinders, obstructs or prevents any member of the Board, or any person authorised by the Board, from entering or inspecting or measuring any such holding shall be liable to a fine not exceeding two hundred rupees.

71. Determination of annual value of holdings.—The gross annual rent at which any holding may be reasonably expected to let shall be deemed to be the annual value thereof, and such value shall accordingly be determined by the Board, and entered in the valuation list:

Provided that the annual value of—

- (1) any holding containing any building or buildings vested in the Government, or
- (2) any holding in respect of which the gross annual rent at which it may be reasonably expected to let cannot, in the opinion of the Board, be satisfactorily ascertained,

shall be deemed to be such percentage of the cost of erection of the building or buildings on the holding as may be determined by the Board with the approval of the State Government in addition to a reasonable ground rent for the land comprised in the holding. Such percentage may be fixed at different rates for different types of buildings and for different localities.

Provided also that, in estimating the annual value of a holding under this section, the value of any machinery and its foundation that may be on such holding shall not be taken into consideration.

Explanation.—The "gross annual rent" shall not include the amount of municipal taxes when paid by the tenant.

72. Determination of rate of tax on holdings.—After the valuation list has been prepared the Board at a meeting shall determine the percentage on the valuation of holdings at which the tax shall be levied throughout the municipality:

Provided that where the annual value of any holding exceeds Rs. 7,500, the tax on the excess shall be leviable at only one-fourth of the percentage fixed under this section.

73. Preparation of assessment register.—As soon as possible after the percentage at which the tax is to be levied.....shall have been determined under the last preceding section, the Board shall cause to be prepared an assessment register which shall contain the following particulars and any others which the Board may think proper to include:—

- (a) number of the holding on the register;
- (b) annual value of the holding [as stated in the valuation list];
- (c) names of owner and occupier;
- (d) amount of tax payable for the financial year;

- (e) amount of taxes payable separately under section 59 (1), (a), (c), (d), or (e);
- (f) amounts of quarterly instalments;
- (g) if the holding is exempted from assessment, a note to that effect.

74. Power to assess upon house consolidated tax for house and land on which stands.—If any house belongs to one owner and the land on which it stands and any adjacent land which is usually occupied therewith belongs to another, the Board may value such house and land together, and may impose thereon one consolidated tax.

The total amount of the tax shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the tax so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

Revision of valuation list and assessment register.

75. Application for reduction of valuation.—If the value of any holding shall be diminished from any cause beyond the control of the owner or occupier thereof, which could not have been prevented with due precaution, or from any other cause which may appear to the Board to be sufficient, the Board may, on the application of the owner or occupier, revise the valuation of the holding.....

76. Power to revise valuation and assessment.—The Board may, at any time after the publication of the notice required by section 87, value and assess any holding which was without authority omitted from the valuation list, or which has become liable to valuation and assessment after the publication thereof, and may enhance the valuation and assessment of any holding which may appear to have been insufficiently valued or assessed through mistake, inadvertence or fraud; and may re-value and re-assess any holding the value of which has been increased by additions or alterations to any building thereon, or by any alteration in the use to which it is put.....

77. Power to revise valuation list and assessment register.—The Board may at any time substitute for any name mentioned in the valuation list or assessment register the name of any person to whom any holding mentioned therein shall have been transferred or who has succeeded to the occupation of any such holding.

[The substitution shall, subject to the provisions of section 39, take effect from the date of the transfer or succession, as the case may be.]

77A. Revision of valuation list.—(1) The Board may at any time make a general revision of the valuation list for all the holdings within the municipality, provided that the interval between successive revisions under this sub-section shall not be less than five years, nor, without the sanction of the Local Government, more than five years.

(2) The Board at a meeting may at intervals of not less than twelve months alter any percentage fixed under section 72.

Explanation.—For the purpose of computing the intervals in sub-section (1) or sub-section (2) the revision or alteration, as the case may be, shall be deemed to have been made on the date from which the consequential revision or alteration of the assessment register takes effect under section 77D.

77B. Appointment of assessor of municipal taxes.—Notwithstanding anything contained in section 77A, if at any time it appears to the State Government that the valuation in any municipality is insufficient, excessive, or inequitable, the Local Government may by an order in writing require the Board to revise the valuation or to show cause against revision within a specified time; and if the Board fails to comply with the order or if in the opinion of the State Government the cause shown is inadequate or the revised valuation also is insufficient, excessive or inequitable, the State Government may by an order in writing require the Board to appoint an assessor for the municipality within a time and for a period to be specified in the order. The appointment shall be subject to the approval of the State Government.

The order shall fix the pay of the assessor and the cost of his establishment and the pay and cost shall be paid monthly by the Board.

The assessor so appointed shall revise the valuation of all the holdings in the municipality.

77C. Revision of assessment register.—Whenever the valuation list is revised or altered wholly or in part or a new percentage is fixed under section 72 the assessment register also shall be revised and all consequential changes made therein.

77D. Effect of revision of assessment register.—The first assessment register prepared for any municipality under the Act and any revision thereof or alteration therein made under any of the foregoing sections shall, subject to the provisions of sections 77 and 89, take effect from the beginning of the quarter following the publication of the notice mentioned in section 87.

78 to 82. Omitted.

General provisions regarding assessment.

83. Exemptions and omissions.—(1) The tax mentioned in section 59, sub-section (1) (a), (c) and (e) shall not be assessed or levied on any building or holding which is used exclusively as a place of public worship, or on any holding which is duly registered as a public burial or burning ground under this Act.

(2) The Board at a meeting may exempt from assessment to the mentioned in section 59, sub-section (1) (a) tax any holding used for the purposes of a public charity.

(3) The Board may, at a meeting, reduce the amount payable on account of any of the taxes mentioned in section 59, sub-sections (1) (a), (c), (d) and (e), or remit the same, if from the circumstances of the case the levy of the tax would be productive of excessive hardship to the person liable to pay the same:

Provided that such reduction or remission shall not, unless renewed by the Board at a meeting, have effect for more than one financial year.

84. Tax not invalid for want of form.—No assessment of tax on property and no charge or demand of any tax made under authority of this Act shall be invalid for error or defect of form, and it shall be enough in any valuation or assessment for the purpose of making such tax if the property so valued or assessed is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

85. Omitted.

86. Powers of assessor.—An assessor appointed by the Board under section 44 or under [Section 77B] shall exercise all the powers of valuation vested by this Act in the Board but shall not hear or determine applications for review made under section 88.

87. Publication of notice of assessments.—(1) When the valuation list mentioned in section 66 and the assessment register mentioned in section 73 shall have been prepared or revised, the Chairman shall sign the same and shall cause them to be deposited in the office of the Board, and shall cause a notice in the prescribed form to be published in the manner prescribed.

(2) The Board may, if they think fit, serve on any person who is liable to pay the tax mentioned in such list a special notice stating the sum for which he is liable.

88. Application for review.—(1) Any person who is dissatisfied with the valuation of his holding or the assessment of any tax may apply to the Board to review the amount assessed, or his liability to assessment, provided that no such application shall be entertained unless the petitioner has paid all municipal taxes other than those depending on such valuation or assessment due from him to the Board up to the date of such application.

(2) When an assessor has been appointed under [section 77B], notice of every such application shall be given by the Board to the assessor.

89. Procedure upon review.—(1) Every application presented under section 88 shall be heard and determined by a committee consisting of not more than five members or by an officer of the Government not below such rank as the State Government may determine, whose services the Board obtains and to whom the Board at the meeting delegates the powers and functions of the committee in this behalf.

(2) The Chairman and Vice-Chairman shall be members of such committee *ex-officio* and the other members shall be appointed from among their numbers by the Board at a meeting:

Provided that no member so appointed shall take part in hearing or determining any application from the ward in which he resides, or in the case of an elected member, the ward [or the section of voters], which he represents, but nothing in this proviso shall prevent any such member from giving evidence with regard to the matter under enquiry.

(3) No such application shall be heard or determined by the committee unless at least three members including the Chairman or the Vice-Chairman or both are present.

(4) The committee or the officer of Government, after taking such evidence and making such enquiries as they may deem necessary, may pass such orders as they may think fit in respect of such application.

(5) If the committee or the officer of Government order that any valuation to which the application relates shall be reduced, they shall record briefly their reasons for such reduction.

(6) The decision of the committee or of a majority of the members thereof, or of the officer of Government, in respect of any application referred to in this section shall be final.

90. Limitation of time for application for review.—Unless good cause shall be shown to the satisfaction of the aforesaid committee or officer of Government for extending the time allowed, and save as is otherwise expressly provided in this Act, no such application shall be received after the expiration of one month from the date of publication of the notice required by section 87 relating to the list or register containing the assessment, in respect of which the application is made, or after the expiration of fifteen days from the date of service of the first notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire:

Provided that, if the Board has served a special notice under section 87 on any person, no such application shall be received from him after the expiration of fifteen days from the date of such service.

91. Assessment to be questioned only under Act.—No objection shall be taken to any assessment or valuation in any other manner than in this Act is provided.

Liability to payment of taxes on vacant holdings, etc.

92. Remission on vacant holding.—When any holding on which a tax has been imposed has been vacant for sixty or more consecutive days during any financial year, the Board shall remit, and, if the tax has been paid, shall refund one-half of so much of the tax of that year as may be proportionate to the number of days the said holding has remained unoccupied:

Provided that the owner of such holding, or his agent, has given to the Board notice in writing of the vacancy thereof, and that the application for refund is made within six months from the date on which such notice is delivered at the office of the Board.

The amount of tax to be remitted or refunded shall be calculated from the date of the delivery of such notice.

Explanation.—An unfurnished house occupied only by a caretaker or chowkidar shall be considered a vacant holding for the purpose of this section.

93. Penalty.—Whoever, being the owner of any holding for which a remission or refund of the tax has been made or in respect of which notice has been given under the last preceding section, fails to give notice of the re-occupation of such holding within fourteen days of such re-occupation shall be liable to a fine not exceeding three times the amount of tax payable quarterly on such holding.

94. Recovery from occupier of tax due from non-resident owner.—If any tax payable under this Act by the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner be not resident within the municipality, or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Provided that no arrear of tax which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

95. Recovery from owner of occupier's tax in certain cases.—If any holding shall be unoccupied, or shall be occupied by more than one tenant holding severally, or shall be of less annual value than two hundred rupees, it shall be lawful for the Board, subject to the provisions of section 92, to recover from the owner of such holding, any taxes payable under this Act by the occupier of the holding.

96. Recovery by owner of occupier's tax paid by owner.—Whenever any tax shall be recovered from any owner of any holding under the provisions of the last preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the tax which shall have been so paid by such owner, and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding, then to recover from such tenant or each of such tenants such sum as shall bear to the entire amount of tax which may have been so recovered from

rich owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding section.

97. Method of recovery by owner.—Every owner who, under the provisions of the last preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof, shall have for the recovery of such sum all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

Recovery of taxes.

98. Taxes when payable.—(1) The amount due by any person on account of any tax] on the annual value of holdings, shall be deemed to be the amount entered in the register, the notice relating to which is published under section 87, unless the amount entered in such register is subsequently altered as provided in this Act, in which case the amount to which the assessment is so altered shall be deemed to be the amount due.

(2) Such tax shall be payable in quarterly instalments, and every such instalment shall be deemed to be due on the first day of the quarter in respect of which it is payable.

99. Bill and notice of demand.—At any time within six months after any sum has become due on account of any tax the Board shall cause to be presented to the person liable to the payment thereof a bill for the said sum which shall contain a statement of the period and of the tax on account of which the charge is made.

At the time of the presentation of the bill a notice of demand in the prescribed form shall be served on the person liable to pay the same, and such notice of demand may be repeated at any subsequent time.

Provided that no charge shall be made in respect of the service of such notice.

Such notice and bill shall be signed or stamped with a facsimile signature by the Chairman or an officer authorized by him in that behalf.

100. If not paid in fifteen days process of attachment may issue.—If any person, after service upon him of such bill and notice, shall not, within fifteen days of the service of such notice or from the date of any order made on an application for review under section 89 pay the sum due, either to the Board at their office or to some person authorized by them to receive the money, or show to the Board sufficient cause for not paying the same, the amount of the arrear due, with costs on the prescribed scale of fees, may at any time within six months after the date of service of the said notice, or of the order made on an application for review as aforesaid, be levied by attachment and sale of any moveable property belonging to the defaulter, except ploughs, plough cattle, tools or implements of agriculture or trade, wherever found, or of any moveable property belonging to any other person, subject to the same exceptions, which may be found within the holding in respect of which such defaulter is liable to such tax or rate :

Provided that when the holding in respect of which the defaulter is committed is a place of business, and the movable property attached is shown to the satisfaction of the Board to have been left there for repairs or safe custody in the ordinary course of business, it shall be released :

Provided also that, if the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such attachment, or by reason of any payment he may make to avoid such attachment or any sale under the same.

101. Attachment how to be made.—Every warrant of attachment and sale under the last preceding section shall be issued by the Board, and shall be in the prescribed form. Attachment shall be made by actual seizure of movable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

Such officer shall make an inventory of all movable property seized under the warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof, by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the prescribed form :

Provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

102. Power of officer to break open door.—The officer charged with the execution of the warrant may, under the special order of the Board, between sunrise and sunset, break open any outer or inner door or window of a house in order to make the attachment, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Provided that he shall not enter or break open the door of any room appropriated for the *zenana*, or residence of women, which by the usage of the country is considered private, without giving an opportunity and facilities for the retirement of the women.

103. Sale how to be conducted.—If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the Board, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

The tax-collector or other officer authorized in that behalf shall make a return of all such sales to the Board in the prescribed form.

104. Certain persons prohibited from purchasing at sales.—All officers and servants of the Board, and all chaukidars, constables and other officers of police, are prohibited from purchasing any property at any such sale.

Whoever (not being a public servant within the meaning of section 21 of the Indian Penal Code) (XLV of 1860), contravenes the provisions of this section shall be punished with simple imprisonment for a term which may extend to two months, or with fine, or with both.

105. Board to keep account of attachments and sales.—The Board shall cause a regular account to be kept of all attachments and sales made for the recovery of taxes under this Act.

106. Sale of property beyond limits of municipality.—If no sufficient moveable property belonging to a defaulter, or being upon the premises in respect of which he is assessed, can be found within the municipality, the Magistrate may, on the application of the Board, issue a warrant to any officer of his Court for the attachment and sale of any movable property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the attachment and sale of any movable property belonging to the defaulter within the jurisdiction of any other Magistrate exercising jurisdiction within the province of Assam, and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Board.

107. Attachment or sale not unlawful for want of form.—No attachment or sale made under this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of attachment, inventory or other proceeding relating thereto.

108. Board may bring suits instead of distraining or on failure of attachment.—Instead of proceeding by attachment and sale, or in case of failure to realize thereby the whole or any part of any tax, the Board may sue the person liable to pay the same in any Court of competent jurisdiction.

License fees on carriages and animals.

109. License fees on carriages and animals.—When it has been determined that license fees on carriages and animals shall be imposed under section 59, subsection (1) (h), the Board at a meeting shall make an order that the owner of every carriage and every animal of the kind specified therein, which is used or kept for use in the municipality, shall take out a license and shall cause such order to be published in the manner prescribed.

Such order shall be published at least one month before the beginning of the half-year in which it shall first take effect and shall specify the fees not exceeding such amounts as may be prescribed by rule, which shall be charged in respect of such licenses:

Provided that the Board may permit the owner of any such carriage or animal which is casually brought within the municipality to keep or use the same within

the municipality without a license for such period not exceeding 30 days in the half-year as may be fixed by the Board.

But no license shall be required in respect of:—

- (a) horses or ponies belonging to officers doing regimental duty, or to members of the Indian Auxiliary Force or Territorial Force, subject to such conditions as may be laid down by the State Government, at the rate of not more than one animal for each officer or soldier;
- (b) horses exempt from any municipal tax under section 34 of the Auxiliary Force Act 1920, (XLIX of 1920) or section 16 of the Indian Territorial Force Act, 1920 (XLVIII of 1920);
- (c) carriages or animals belonging to the Government, or to the Board or to the Local Board, or for keeping which for the execution of their duty an allowance is made by any Government or by the Board or by the Local Board to any of their officers;
- (d) animals used by, or exclusively for the purposes of, any regiment;
- (e) horses or ponies used by police officers, at the rate of not more than one for each officer;
- (f) carriages or animals kept for sale by any *bona fide* dealer in such carriages or animals, and not used for any other purpose;
- (g) motor cycles belonging to volunteers or members of the Indian Auxiliary Force or Territorial Force, subject to such conditions as may be laid down by the State Government at the rate of not more than one for each volunteer or member.

110. Fees so fixed to continue until altered.—Any order of the Board imposing license fees under the last preceding section shall continue in force until rescinded, and the fees shall be charged at the rates specified in the order published as aforesaid unless and until the Board at a meeting, held not less than one month before the end of the financial year, make and publish an order specifying any different fees which shall be charged for the ensuing financial year.

111. Licenses how to be obtained.—In any municipality in which license fees have been imposed under section 109, the owner of every carriage and animal specified in the order under the aforesaid section shall, within the first month of each half-year, forward to the Board a statement in writing, signed by him, containing a description of the carriages and animals for which he is bound to take out a license.

Such owner shall, at the same time, pay to the Board such sum as shall be payable by him for the current half-year for the carriages and animals specified in such statement, according to the fees specified in any order for the time being in force under the two last preceding sections.

112. Proportionate fee on carriages, etc., acquired during half-year.—If any person acquires possession, at any time after the commencement of any half-year, of any carriage or animal specified in the order under section 109, in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof, and shall pay such amount of fee as shall bear the same proportion to the whole fee for the half-year as the unexpired portion of the half-year bears to the half year, and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

113. On payment of fee, Board to give a license.—On receiving the amount of the fees due as aforesaid, the Board, or some person authorized by them in that behalf, shall give to the person paying the same a license for the several carriages and animals for the period in respect of which the amount is received.

Such license shall be for the current half-year and no longer.

114. Carriage, etc., liable to fee, although the owner be absent.—Whenever the owner of any carriage or animal liable to pay the said fee is not resident within the limits of the municipality to the Board of which the fee is due, the person in whose immediate possession the carriage or animal is for the time being kept shall take out a license for the same.

115. Penalty.—Whoever keeps, or is in possession of, any carriage or animal without the license required by any of the three last preceding sections shall be liable to a fine not exceeding four times the amount payable by him in respect of such license, inclusive of the amount so payable.

116. Board may compound with livery stable-keepers.—The Board, at their discretion, may compound, for any period not exceeding one year, with livery

stable-keepers and other persons keeping carriages or animals for hire, for a certain sum to be paid for the carriages or animals so kept by such person in lieu of the license fees specified in any order made by the Board under sections 109 and 110.

117. List of persons licensed to be prepared.—The Board shall, from time to time, cause to be prepared and entered in a book, to be kept by them, any to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year a license has been given and of the carriages and animals in respect of which they have paid the fees.

118. Power to inspect stables, etc., and to summon persons liable to the payment of the fee.—The Board, or any person authorised by them in that behalf, may at any time between sunrise and sunset enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any carriage or animal liable to the license fee, for which a license has not been duly taken out.

And the Board may summon any person whom they have reason to believe to be liable to the payment of any such fee, or any servant of such person, and may examine such person or servant as to the number and description of the carriages and animals in respect of which such person is liable to pay license fees.

119. Refund of fee in certain cases.—On proof being given to the satisfaction of the Board that a carriage or animal, for which a license has been taken out for any half-year, has ceased to be used or kept for use, within the municipality during the course of such half-year, the Board shall order a refund of so much of the license fee for the half-year as shall bear the same proportion to the whole fee for the half-year as the period during which such carriage or animal has not been so kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Board within one month of the time when such carriage or animal ceased to be so kept or used, and, except for special cause shown, the Board shall pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

120. Prohibition of double fees.—Nothing contained in this Act shall be deemed to authorise two or more local authorities to levy, between them, more than one fee for the same period in respect of any carriage or animal, and in the event of any dispute arising as to which of several local authorities is to levy the fee or as to how the fee levied is to be apportioned between several local authorities, the question shall be referred to the State Government and its decision shall be final.

Provided that where one of the local authorities is a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

Registration of carts.

121. Registration and numbering of carts.—When it has been determined that fees on the registration of carts shall be imposed under section 59, sub-section (1) (i), the Board at a meeting shall make an order that every cart, which is used or kept for use within the municipality, shall be registered by the Board with the name and residence of the owner and shall bear the number of registration in such manner as the said Board shall direct.

Such order shall be published at least one month before the beginning of the half-year in which it shall first take effect and shall specify the fee, not exceeding such amount as may be prescribed by rule, which shall be paid each registration:

Provided that the Board may permit the owner of any such cart which is casually brought within the Municipality to keep or use the same within the Municipality without a license for such period not exceeding 30 days in the half-year as may be fixed by the Board.

This section shall not apply to carts which are the property of the Government or of any Local or Municipal Board.

122. Fees so fixed to continue until altered.—Any order of the Board ordering registration fees to be paid under the last preceding section shall continue in force until recinded, and the fees shall be charged at the rates specified in the order published as aforesaid unless and until the Board at a meeting make and publish an order specifying any different rates.

123. Period of registration.—The registration of carts shall be made, and the numbers assigned, yearly or half-yearly, upon such days as the Board shall notify.

124. Proportionate payment of fee.—If any person acquires possession, at any time after the commencement of any period of registration, of any cart which has not been registered for such period, he shall register the same within one month from the date on which he may have acquired possession thereof, and shall pay

such amount of fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period, and such fee shall be calculated from the date on which such person may have acquired possession as aforesaid.

125. Transfer of ownership.—When the ownership of any registered cart is transferred within any period of registration it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such last mentioned registration.

126. Penalty—Whoever keeps, or is in possession of, a cart not duly registered as required by any of the three last preceding sections, shall be liable to a fine not exceeding four times the amount payable by him in respect of such registration, inclusive of the amount so payable and whoever, being the owner or driver of any cart, shall fail to affix thereto the registration number as required by section 121, shall be liable to a fine not exceeding five rupees

127. Seizure and sale of unregistered cart.—(1) If any person owns or keeps any cart hereinbefore required to be registered without having caused the same to be registered, the Board, or any person authorised by them in that behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods); and all police officers are required, on the application of the Board, or of any servant of the Board duly authorised in that behalf, to assist in the said seizure.

(2) After such seizure the Board shall forthwith issue a notice in writing that after the expiration of ten days they will sell such cart by auction at such place as they may state in the notice, and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Board may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(3) The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction:

Provided that, if, at any time before the sale is concluded, the person whose cart has been seized shall tender to the Board, or to the person authorized by them to sell the cart, the amount of all the expenses incurred and the registration fee payable by him, the Board shall forthwith release the cart so seized.

(4) Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any cart which has been seized under this section may be sold for the realization of any such fine.

128. Prohibition of double fees.—Nothing contained in this Act shall be deemed to authorise two or more local authorities to levy, between them, more than one fee for the same period in respect of any cart, and in the event of any dispute arising as to which of several local authorities is to levy the fee or as to how the fee levied is to be apportioned between several local authorities, the question shall be referred to the State Government and its decision shall be final.

Provided that, where one of the local authorities is a cantonment authority, the decision of the State Government shall be subject to the concurrence of the Central Government.

Tolls on bridges and roads.

129. Powers of Board to establish tollbars and levy tolls.—The Board at a meeting, with the previous sanction of the State Government, may establish a toll-bar—

- (i) on any bridge within the municipality which has, after the date of the commencement of this Act, been constructed or purchased out of the municipal fund, or to the cost of the construction or purchase of which contribution has, after the said date, been made out of the municipal fund; or
- (ii) on any road-way or foot-way of a railwaybridge which has, after the said date, at the instance of the Board and out of the municipal fund, been so constructed or widened as to allow the passage of persons, vehicles or animals; or
- (iii) on any metalled road which has, after the said date, been constructed out of the municipal fund, or to the cost of the construction of which

contribution has, after the said date, been made out of the municipal fund; or

- (iv) at any place within the municipality, adjacent to any bridge or road referred to in clauses (i) to (iii), at which tolls may conveniently be levied;

and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge, road-way, footway or metalled road:

Provided as follows:—

(1) No toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—

- (a) the expenses incurred by the Board in constructing, purchasing, contributing to or widening such bridge, road-way, foot-way or metalled road;
- (b) interest on such expenses, at the rate of six per centum per annum; and
- (c) the capitalised value of the receipts in respect of any public ferry, the proceeds of which are under the orders of the State Government, placed at the disposal of the Board, which the Board will lose partially or completely owing to the construction of such bridge or the construction or widening of such road-way or foot-way;
- (d) the capitalised value of the estimated cost to the Board of maintaining such bridge, roadway, foot-way or metalled road, and of renewing it, if it requires periodical renewal.

(2) No toll-bar shall be established, or tolls levied, on, or in respect of, any bridge, road-way, footway or metalled road the cost or estimated cost of which, as indicated in clauses (a), (c) and (d) of proviso (1), was or is less than ten thousand rupees.

130. Lease of toll-bar.—The Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 129.

131. Procedure where two or more local authorities have contributed towards cost of bridge, etc.—When the Board with any other local authority having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, road-way, foot-way or metalled road, have received the sanction of the Local Government to the establishment of a toll-bar, the toll shall be levied or granted in lease by such local authority as the Local Government may, in its order according sanction, direct, and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the local authorities according to rules made in this behalf by the State Government.

Provided that, where one of the local authorities concerned is a cantonment authority, the powers of the State Government under this section shall be exercisable only with the concurrence of the Central Government.

132. Exemptions from payment of toll.—(1) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 129, namely:—

- (a) Government stores and persons in charge thereof;
- (b) police officers and other public officers and their servants travelling on duty, members of the board and officers of the municipality and their servants so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such property;
- (c) conservancy carts and other vehicles and animals belonging to the Board, and persons in charge thereof; and
- (d) any other class of persons or things which may be exempted by order of the Board.

(2) Nothing in this section shall be deemed to affect the provisions of the Indian Tolls (Army) Act, II of 1901.

133. Rates of tolls.—(1) When it has been determined that tolls shall be levied at any toll-bar established under section 129, the Board shall, from time to time, make and publish an order specifying the rates at which, subject to the sanction of the Deputy Commissioner, the tolls shall be levied.

(2) A table of such tolls, legibly printed or written in English and the vernacular of the district, shall be affixed in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(3) In default of compliance with sub-section (2), the toll-collector or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

134. Power to compound for tolls.—The Board or the lessee of any toll-bar may compound with any person for a certain sum to be paid by such person for himself or for any vehicles or animals kept by him in lieu of the rates specified under section 133.

135. Power of toll-collector or lessee in case of refusal to pay toll.—Any toll-collector or lessee of a toll-bar established under section 129 may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

136. Penalty for refusing to pay toll.—Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

137. Police officers to assist.—Where resistance is offered to any person authorized under this Act to collect tolls, any police officer whom he may call to his aid shall be bound to assist him; and such police officer shall for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

138. Penalty for taking unauthorised tolls. When any person, authorized to collect tolls, demands or takes any higher tolls than the tolls authorized under this Act, he shall be punishable with fine which may extend to fifty rupees.

139. Board to publish expenses of toll-bars.—(1) When a toll-bar has been established and tolls have been levied under section 129 in respect of any bridge, road-way, foot-way or metalled road, the Board shall, at the end of each financial year, publish by causing to be affixed at their office, an abstract account showing—

(a) the amount of the expenses incurred by the Board in constructing, purchasing, contributing to or widening the bridge, road-way, foot-way or metalled road;

(b) the amount of interest which has accrued due on such expenses;

(c) the capitalised value of the receipts in respect of any public ferry which the Board will lose partially or completely owing to the construction of such bridge or the construction or widening of such road-way or pathway;

(d) the capitalised value of the estimated cost of maintaining the bridge, road-way, foot-way or metalled road and, where it requires periodical renewal, of renewing it; and

(e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) When such expenses, interest and capitalised value have been recovered as aforesaid, such toll-bar shall forthwith be removed, and tolls shall no longer be levied on such bridge, road-way, foot-way or metalled road.

Rents, tolls and fees for markets

140. Rents, tolls and fees.—The Board at a meeting may charge rents, tolls and fees for the right to expose goods for sale in a municipal market and for the use of shops, stalls and standings therein.

Recovery of miscellaneous demands.

141. Recovery of moneys due to the Board.—All rents, tolls and fees and all costs, expenses, or other moneys due under this Act to the Board may be recovered in the manner provided in sections 99 to 108, both inclusive.

Supplemental provisions

142. Office hours for receipt of money.—The Board shall, by notice to be posted up in their office, declare at what hours of each day (not being a Sunday or other recognised holiday) the office shall be open for the receipt of money and the transaction of business.

143. Receipts to be given.—For all sums paid on account of any tax, fee or other moneys due under this Act a receipt stating the amount and the tax, fee or other charge on account of which it is paid shall be given, signed by the tax collector or by some other officer authorized by the Board to grant such receipts.

144. Power to sell unclaimed holdings, for money due.—If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding

or his whereabouts are unknown or the ownership thereof is disputed, the Board may publish twice, at an interval of three months, a notification of sale of such holding, and after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit forthwith twenty-five per cent. of the purchase money. The balance shall be paid within fifteen days of the date of sale; in default the money, if any, so deposited shall be forfeited and the holding shall be resold, and the shortage, if any, may be recovered by the Board from the defaulter as arrears of municipal tax in the manner provided in this Act. After deducting the amount due to the Board as aforesaid, the surplus sale-proceeds (if any) shall be credited to the municipal fund and may be paid on demand to any person who establishes his right to the satisfaction of such Board or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

145. Irrecoverable taxes, etc.—The Board may order to be struck off the books the amount of any tax or fee or other demand which may appear to them to be irrecoverable.

CHAPTER VI.

POWERS FOR SANITARY AND OTHER PURPOSES

Roads

146. Power to close a public road.—The Board may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the purpose of constructing or repairing any sewer, drain, culvert, or bridge, or for any other public purpose; or divert, discontinue or close permanently any such road:

Provided that the Board so closing any such road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road:

Provided also that the power to divert, discontinue or close permanently any road shall only be exercised by the Board at a meeting.

Whenever, owing to such repairs or constructions, or from any other cause, any such road or part of such road shall be in a state which is dangerous to passengers, the Board shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

147. Prohibition of use of public roads by a class of animals or vehicles.—

(1) The Board may, by public notice, prohibit or regulate the driving, riding or leading of animals or vehicles of any particular kind along any public road or part of any such road.

(2) Any person who disobeys an order passed by the Board under the provisions of sub-section (1) shall be liable to a fine not exceeding twenty rupees.

148. Power to acquire land for building sites adjoining new public roads.—

Where any land is required for a new public road, or for the improvement of an existing public road, the Board may proceed to acquire, in addition to the land to be occupied by the road, the land necessary for the sites of the buildings to be erected on the sides of the road.

149. Power to require repairs of roads and to declare such roads public.—(1)

When the Board considers that in any road, not being a public road which has previously been levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds, or in any part of such road, within the municipality, it is necessary, for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Board may by written notice require the respective owners of the lands or buildings, fronting, adjoining or abutting upon such road or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

(2) If such notice is not complied with during the time specified, the Board may, if it thinks fit, execute the work mentioned or referred to therein, and may, if it thinks fit, recover under the provisions of section 141 the expenses incurred in doing so from the owners in default according to the frontage of their respective lands or buildings and in such proportion as may be decided by the Board.

(3) After such work has been carried out by such owners or, as provided in clause (2) by the Board at the expense of such owners, the road or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice put up therein by the Board to be a public road, and shall vest in the Board.

(4) The Board may at any time, by notices fixed up in any road or part of a road not maintainable by the Board, give intimation of its intention to declare the same a public road, and unless within one month next after such notice has been so put up the owner or the majority of several owners of such road or such part of a road lodges or lodge objections thereto at the municipal office the Board may, by notification in writing, put up in such road or such part, declare the same to be a public road vested in the Board.

(5) This section and section 148 shall not take effect in any municipality until it has been specially extended thereto by the State Government at the request of the Board.

150. Leave to deposit moveable property on, or to excavate or enclose, a public road or land.—The Board may grant permission to any person, for such period and on such terms as it may think fit, to deposit any movable property on any public road or any land vested in the Board, or to make an excavation in any such road or any such land, or to enclose the whole or any part of any such road or of any such land, and may charge such fees as it may fix for such permission:

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

151. Hoards to be set up during repairs.—(1) Every person intending to build or take down any house, or to alter or repair the outward part of any house, shall if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing any in good condition, to the satisfaction of the Board, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Provided that no person shall put up such hoard or fence without the written permission of the Board nor shall he keep up the said hoard or fence for a time longer than allowed in the said written permission.

(2) Any person who contravenes any provisions of this section shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

152. Penalty for encroachment on road, etc.—Any person who, without the permission of the Board,—

(a) encroaches upon any road or house-gully or upon any public drain, sewer, aqueduct, water-course or ghat by making any excavation or by erecting any wall, fence, rail, post, projection or other obstruction, or by depositing any movable property, or

(b) takes up or alters the pavements or other material, fences or posts on any road,

shall, for every such offence, be liable to a fine not exceeding fifty rupees.

153. Removal of obstructions or encroachments in or on road.—The board may issue a notice requiring any person to remove any building which he may have built, or any fence, rail, post or other obstruction or encroachment which he may have erected, in or on any road or house-gully or in or on any public drain, sewer, aqueduct, water-course or ghat or any land vested in the Board;

and, if such person shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the Board, order that such obstruction or encroachment be removed; and thereupon the Board may remove any such obstruction or encroachment and the expenses thereby incurred shall be paid by the person who erected the same.

154. Procedure when person who erected obstruction cannot be found.—If the person who built or erected the said building, fence, rail, post or other obstruction or encroachment is not known or cannot be found, the Board may cause a notice to be posted up in the neighbourhood of the said building, fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition:

and, if the said building, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within eight days of the posting up of the same, the Magistrate may, on the application of the Board, order, that such obstruction or encroachment be removed; and thereupon the Board may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

155. Projections from houses to be removed.—(1) The Board may issue a notice requiring the owner or occupier of any house to remove or alter any projection, obstruction or encroachment erected or placed against or in front of such house, if the same overhangs the road or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any road or house-gully, or obstructs, or projects, or encroaches into or upon any drain, sewer or aqueduct in any road or into or upon any public water-course or ghat or any land vested in the Board;

and, if such owner or occupier shall fail to comply with such requisition within eight days of the receipt of the same, or within such further time as the Board may allow the Magistrate may, on the application of the Board, order that such projection, obstruction or encroachment be removed or altered; and thereupon the Board may remove or alter such projection, obstruction or encroachment, and any reasonable expense incurred for the purposes of such removal or alteration shall be paid by the owner or occupier so making default.

(2) If the expense of removing or altering any such structure or fixture is paid by the occupier of the building, in any case in which the same was not erected by himself, he shall be entitled to deduct any reasonable expense incurred for the purposes of such removal or alteration from the rent payable by him to the owner of the building.

156. Compensation for removal of obstructions.—No person shall be entitled to compensation in respect of the removal of any building, fence, rail, post, projection, obstruction or encroachment under section 153 or section 155(1) unless it be proved that the projection, building, fence, rail, post, encroachment or obstruction is more than twelve years old, in which case the Magistrate may order reasonable compensation to be paid to any person who suffers damage by any removal or alteration under the aforesaid sections. In determining the amount of compensation, the value of the land shall not be taken into consideration.

157. Effect of order made under sections 153, 154, 155 or 156.—Every order made by the Magistrate under sections 153, 154, 155 or 156 shall be deemed to be an order made by him in the discharge of his judicial duty, and the Board shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act XVIII of 1850 (for the protection of Judicial Officers).

158. Power to regulate line of buildings on public roads and drains.—(1) Whenever the Board considers it expedient to define the general line of buildings on each or other side of any existing or proposed public road or drain, it shall give public notice of its intention to do so.

(2) Every such notice shall specify a period within which objections will be received.

(3) The Board shall consider all objections received within the specified period and may then pass a resolution defining the said line, and the line so defined shall be called "the regular line" of the road or drain.

(4) Thereafter, it shall not be lawful for any person to erect, re-erect or alter a building or part of a building so as to project beyond the regular line of the road or drain unless he is authorised to do so by a sanction given under section 168 or by a permission in writing (and the Board are hereby empowered to grant such permission) under this section.

(5) Any owner of land who is prevented by the provisions of this section from erecting, re-erecting, or altering any building on any land may require the Board to make compensation for any damage which he may sustain by reason of such prevention, and upon the payment of compensation in respect of any land situated within the regular line of the road or drain such land shall vest in the Board.

(6) The Board may, by notice, require the alteration or demolition of any building or part of a building erected, re-erected or altered in contravention of sub-section (4).

159. Erection of platforms.—(1) No platform shall be erected, re-erected or extended without the previous sanction of the Board.

(2) The owner of every platform, except platforms which are used for giving such access to the houses as the Board may consider necessary, shall, if the Board in a meeting so direct, take out a license for keeping the platform.

(3) Every such license shall remain in force for one year and shall be renewable annually.

(4) Any platform erected, re-erected, extended or maintained in contravention of the provisions of sub-sections (1), (2) and (3) shall be deemed to be an "obstruction" for the purposes of sections 153, 154 and 155.

160. Fallen building, etc., obstructing public road or drain to be removed by owner.—Whenever any building or other erection, or any tree, shall fall down and obstruct any public drain or encumber any public road, the Board may remove such obstruction or encumbrance at the expense of the owner of the same, or may require him to remove the same within such time as to the Board shall seem fit.

161. Cutting up public road for passage of water, etc.—If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the Board, dig or cut up any public road, he shall be liable to a fine not exceeding twenty-five rupees, and in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road.

162. Board may require land-holders to trim hedges, etc.—The Board may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any road, and to cut and trim any trees or bamboos thereon overhanging any road or tank, or any well used for drinking purposes, or obstructing any road or causing or likely to cause damage to any road or any property of the Board, or likely to cause damage to any person using any road, or fouling or likely to foul the water of any well or tank.

163. Penalty for disobeying requisition under section 153, 155, 158, 160 or 162.—Whoever, being the owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Board under the provisions of sections 153, 155, 158, 160 or 162, shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty not exceeding ten rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

164. Names of roads and numbers of houses.—(1) The Board at a meeting may cause a name to be given to any road and to be affixed in such place as it may think fit, and may also cause a number to be affixed to every house, and in like manner may, from time to time, cause such names and numbers to be altered.

(2) Any person who destroys, pulls down, defaces or alters any name or number put up by the Board under sub-section (1) shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

Buildings.

165. Prohibition of building without sanction.—(1) No person shall erect or re-erect or commence to erect or re-erect any building without the sanction of the Board.

(2) Every person who intends to erect or re-erect any building shall give notice in writing to the Board of such intention.

(3) When bye-laws have been framed under section 297, clause (iv) no notice under sub-section (2) shall be considered to be valid until the information, if any, required by such bye-laws has been furnished to the satisfaction of the Board.

166. Special provision for cases where bye-laws have not been made under section 297, clause (iv).—In any case in which no bye-laws have been made under section 297, clause (iv) the Board may, within fourteen days of the receipt of the notice required by section 165, sub-section (2), require a person who has given such notice to furnish, within one week of the receipt by him of the requisition, information on all or any of the matters as to which bye-laws might have been made, and in such case the notice shall not be valid until such information has been furnished.

167. Dispensation.—The Board at a meeting may dispense with the observance of any or all of the bye-laws made under section 297, clauses (iii) and (iv), in regard to the erection or re-erection of any building or class of buildings specified by it.

168. Powers of Board to sanction or refuse.—Within two months after the receipt of the notice, required by section 165, sub-section (2), the Board may refuse to sanction the building or may sanction it either absolutely or subject to such modification as it may deem fit in respect of all or any of the matters specified in section 297, clause (iv); and the person erecting or re-erecting any such building as aforesaid shall comply with the sanction of the Board as granted in every particular.

Provided that should the Board neglect or omit for one month after the receipt of a valid notice to make and deliver to the person who has given such notice an

order of sanction or refusal in respect thereof, it shall be deemed to have sanctioned the proposed building absolutely.

Explanation.—The Board may refuse to sanction the erection or re-erection of any building either on grounds affecting the particular building or in pursuance of a general scheme adopted by the Board at a meeting restricting the erection or re-erection of buildings or any class of buildings within specified limits for the prevention of overcrowding, or in the interest of the residents within such limits or for any other public purpose. Permission may also be refused in any case in which there is any dispute between the Board and the applicant as to the title of the land on which it is proposed to erect the building until such dispute is decided.

169. Lapse of sanction.—Every sanction for the erection or re-erection of any building which shall be given, or deemed to have been given by the Board, shall remain in force for one year only from the date of such sanction. Should the erection or re-erection of the building not have been commenced and substantial progress made within the said period of one year, the sanction shall be deemed to have lapsed; but such lapse shall not bar any subsequent application for fresh sanction under the foregoing provisions of this Act.

170. Building without or in contravention of sanction.—Whoever erects or re-erects or commences to erect or re-erect any building without the previous sanction of the Board, or in contravention of any directions given by the Board in granting sanction under section 168, shall be liable to a fine not exceeding one hundred rupees for every such offence, and to a further fine not exceeding five rupees for each day during which the offence is continued after he has been convicted of such offence.

171. Powers of Board in case of disobedience.—(1) Should a building be begun or erected—

- (a) without sanction as required by section 165(1); or
- (b) without notice as required by section 165(2); or
- (c) when sanction has been refused; or
- (d) in contravention of the terms of any sanction granted; or
- (e) when the sanction has lapsed; or

(f) in contravention of any bye-law made under section 297, clause (v); the Board may, by notice to be delivered within a reasonable time, require the building to be altered or demolished as it may deem necessary, within the space of thirty days from the date of the service of such notice:

Provided that no such notice shall issue in respect of the contravention of any bye-law the observance of which has been dispensed with under section 167:

Provided also that the Board may, instead of requiring the alteration or demolition of any such building, accept by way of composition such sum as it may deem reasonable.

(2) Any person who fails to comply with a requisition issued by the Board under the provisions of sub-section (1) shall be liable to a fine not exceeding twenty-five rupees and to further fine not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

172. Compensation for prohibition of erection or re-erection.—(1) No compensation shall be claimable by an owner for any damage which he may sustain in consequence of the prohibition of the erection of any building.

(2) The Board shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any building:

Provided that the Board shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such prohibition has ceased to be fit for occupation or to exist or having been demolished or destroyed has not been re-erected.

173. Roofs and external walls not to be made of inflammable materials.—The Board at a meeting may, by written notice, require any person who has made any external roof or wall of an inflammable material in contravention of a bye-law made under section 297, to remove or alter such roof or wall within a period to be specified in the notice.

174. Power to attach brackets for lamps.—The Board may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury thereto or inconvenience.

175. Buildings unfit for human habitation.—(1) Should a building, or a room in a building, be in the opinion of the Board unfit for human habitation in consequence of the want of proper means of drainage or ventilation or otherwise, the Board may, by notice, prohibit the owner or occupier thereof from using the building or room for human habitation or suffering it to be so used either absolutely or unless, within a time to be specified in the notice, he effects such alteration therein as is specified in the notice.

(2) Upon failure of a person to whom notice is issued under sub-section (1) to comply therewith, the Board may require by further notice the demolition of the building or room.

(3) Any person who uses a building or room or suffers it to be used contrary to the provisions of sub-section (1) shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

176. Power to require cleansing or lime-washing of building.—(1) If after inspection it appears to the Board necessary for sanitary reasons so to do, it may, by a written notice, require the owner or occupier of any building to cause the same or any portion thereof to be lime-washed or otherwise cleansed either externally or internally or both externally and internally.

(2) Any owner or occupier of a building, who fails to comply with a requisition issued under the provisions of sub-section (1), shall be liable, for every such default, to a penalty not exceeding twenty-five rupees and to a further penalty not exceeding five rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

177. Fencing of building in a dangerous state.—If any building, or portion of a building, or structure affixed to a building, be deemed by the Board to be in a ruinous state and dangerous to the inmates, if any of such building or of any other building or to passers-by, or if any other structure be deemed by the Board to be in a ruinous state and dangerous to passers-by or to any other persons, it shall forthwith, if it appears to it necessary, cause a proper hoard or fence to be put up for the protection of passers-by or of other persons who may be endangered, and may recover the expense so incurred from the owner or occupier of the building or the owner or occupier of the land to which such building or other structure is affixed, and may require such owner or occupier within seven days to take down, secure or repair such building or other structure, as the case may require.

178. Board may require owners to pull down ruins.—Whenever it appears to the Board that any building by reason of being unsecured and untenanted, or by reason of having fallen into ruins, affords facilities for the commission of a nuisance or for the harbouring of snakes or other noxious animals, the Board may require the owner of such building or the owner of the land to which such building is attached, to properly secure the same, or to remove or level such ruins, as the case may require.

179. Penalty for disobeying requisition under section 177 or 178.—Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of section 177 or 178, shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Sanitary measures with regard to block of huts.

180. Power of Board as to inspection of huts.—Whenever the Board at a meeting are satisfied, from inspection, or by report of competent persons, that any existing block of huts within the municipality is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavenging, attended with risk of disease to the inhabitants of the neighbourhood, it may cause the locality to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said block of huts, and shall specify, if necessary, in the said report, the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

181. On receipt of report Board may cause notice to be served.—On receipt of the said report, the Board at a meeting may require the owners or occupiers of the huts, or, at the option of the Board, the owner of the land on which such huts

are built, to carry out and execute, within a reasonable time to be fixed by the Board for such purpose, all or any of the work specified in the aforesaid report or any portion thereof respectively and, if such owner or owners or occupiers shall fail to comply with such requisition, the Board itself may execute all or any of such works.

182. Recovery of expenses.—The Board at a meeting may order that any expenses payable in respect of any work done by it in consequence of the failure of the owners or occupiers to execute such work when required to do so under the last preceding section, shall be recovered by instalments from the person liable to pay the same; or, if it should appear to it that the said person is unable by reason of poverty to pay the same, may order the same, or any portion thereof, to be paid out of the municipal fund.

183. Sale of huts.—If any of the said huts be pulled down, the Board shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owners of the hut, or, if the owner be unknown, or the title disputed, shall be held in deposit by the Board, until the person interested therein shall obtain the order of a Court of competent jurisdiction for the payment of the same.

184. Masonry house interspersed in a block of huts.—The mere fact that Masonry houses are interspersed in a block of huts shall not prevent action being taken with reference to such huts under section 180 to 183.

Tanks, wells, streams, etc

185. Provision for drinking water, bathing places, etc.—(1) The Board may, by order published at such places as it may think fit set apart convenient wells, tanks, parts of rivers, streams, channels or water-courses, not being private property, for the supply of water for drinking or for culinary purposes and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purpose of bathing;

and a sufficient number for washing animals and clothes or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

(2) The Board may, by an order published at such places as it may think fit, prohibit in the private portion of any stream, channel or water-course used as a part of the public water supply, bathing, washing of clothes or animals, or any act likely to pollute the water in the public portion of such stream, channel or water course.

186. Prohibition by Board of use of unwholesome water.—If the Civil Surgeon or the Health Officer or a Chief Civil Medical Officer of a subdivision not being below the rank of an Assistant Surgeon certifies that the water in any well, tank, or other place situated within a municipality is likely, if used for any purposes, to engender or cause the spread of any dangerous disease, the Board may, by public notice, prohibit the removal or use of such water during a period to be specified in such order.

187. Disobeying order under section 185 or 186.—Any person who disobeys an order passed by the Board under the provisions of section 185 or 186 shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

Dangerous or insanitary buildings and other places.

188. Power to require owners to clear noxious vegetation.—The Board may, by notice, require the owner or occupier of any land within such time as the Board may fix to cut and remove any trees or bamboos or branches thereof, or eradicate and destroy *lantana*, *eupatorium*, water-hyacinth or other vegetation or undergrowth which may appear to the Board to be injurious to health or offensive to the neighbourhood or to be causing or likely to cause damage or destruction to any crop growing or to be grown, or to be obstructing or likely to obstruct the free passage of men or animals along a public road, or of any boat or steam vessel along a public water-way.

189. Power to require owners to improve bad drainage.—Whenever any land, being private property, or within any private enclosure, appears to the Board by want of drainage to be in a state injurious to health or offensive to the neighbourhood, or by reason of inequalities of surface to afford facilities for the commission of a nuisance, the Board may require the owner or occupier or the owner and occupier of such land, within fifteen days, to drain such land or level such surface:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

190. Power to require unwholesome tanks or private premises to be cleansed or drained.—The Board may require the owner or occupier of any land within eight days or such longer period as the Board may fix, either to re-excavate or at his option fill up with suitable material or to cleanse any well, watercourse, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood :

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Board shall provide such land and pay such compensation.

(2) If under the provisions of this Act the Board execute the work of such re-excavation or filling up with suitable material, it may retain possession of the tank or pool or the site of such tank or pool and turn the same to profitable account until the expenses thereby incurred shall have been realized.

191. Wells, tanks, etc., to be secured.—If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passengers, the Board shall forthwith, if it appears to it to be necessary, cause a temporary hoard or fence to be put up for the protection of passengers, and may recover the expenses so incurred from the owner or occupier or the owner and occupier of the land on which such tank, well or other excavation is situated, and may require such owner or occupier or such owner and occupier within seven days properly to secure or protect such well, tank or other excavation.

192. Penalty for disobeying requisition under sections 188, 189, 190 or 191.—Any owner or occupier of a house or land who fails to comply with a requisition issued by the Board under the provisions of sections 188, 189, 190 or 191 shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty not exceeding twenty rupees for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

193. Power of State Government to prohibit cultivation, use of manure or irrigation injurious to health.—If the Sanitary Commissioner, the civil surgeon or the health officer certifies that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner,—

(a) in any place within the limits of the municipality, is injurious, or facilitates practices which are injurious, to the health of persons dwelling in the neighbourhood, or

(b) in any place within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking purposes,

the State Government may, on receipt of an application from the Board, by public notice, prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so certified to be injurious, or impose such conditions with respect thereto as may prevent the injury :

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five successive years last preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by such prohibition.

194. Power to prohibit excavations.—(1) The Board at a meeting may, by a general order, prohibit in the whole or any part of the municipality the making of excavations for the purpose of taking earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein, and the digging of tanks or pits without special permission previously obtained from it.

(2) If any such excavation, tank or pit is made after the issue and publication of such order without such special permission, the Board may require the owners and occupiers of the land on which such excavation, tank or pit is made within two weeks to fill up such excavation and in case of failure may cause such excavation to be filled up and recover the cost thereof from the person so required.

(3) Any person who contravenes an order made under sub-section (1) shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

Latrines, etc.

195. Public latrines and urinals.—(1) The Board may provide and maintain, in sufficient numbers and in proper situation, public latrines and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

(2) The Board may license such latrines and urinals for public accommodation as it from time to time may think proper.

(3) Any person who keeps any public latrine or urinal without a license from the Board under sub-section (2), or having a license for a public latrine or urinal, suffers, such latrine or urinal to be in filthy or noxious state or neglects to employ proper means for cleansing the same shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

196. Latrines and urinals must be properly enclosed.—(1) Every person constructing a latrine or urinal shall have such latrine or urinal shut out by a sufficient roof and wall of fence from the view of persons passing by or residing in the neighbourhood; and the Board may require any owner or occupier of land on which a latrine or urinal stands to cause the same to be shut out from view as aforesaid within fifteen days.

(2) Any person constructing a latrine or urinal and failing to have it shut out from view, as required in sub-section (1), shall be liable to a fine not exceeding twenty rupees and a daily fine of one rupee until it shall have been so shut out from view.

197. Power to require latrine or urinal to be constructed.—(1) If the Board thinks that any latrine or urinal or additional or common latrine or urinal should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the Board, or within such longer time as the Board may for special reasons allow, cause such latrine or urinal to be constructed in accordance with the requisition of such notice; and, if such latrine or urinal is not constructed to the satisfaction of the Board within such period, the Board may cause the same to be constructed, and the expenses thereby incurred shall be recoverable from the owner.

(2) The Board may, for the purposes of this section or for the purpose of levying the latrine tax at a rate per head under section 63, sub-section 2(b), by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in or habitually resorting to, such holding.

(3) Whoever, being the owner or occupier of any holding, fails to furnish such list within the time specified in such notice, after being required to furnish the same by the Board, shall be liable to a fine not exceeding one hundred rupees.

198. No latrine, etc., to be constructed in certain circumstances.—(1) No person shall, without the written permission of the Board, construct a latrine or urinal with a door or a trap door opening on to any road or drain.

(2) No person shall, without the written permission of the Board, construct or keep any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter within fifty feet of any public tank or water course or a tank or water course which the inhabitants of any locality use, or any well.

(3) The Board may require any owner and occupier upon whose land any latrine or urinal such as is mentioned in sub-section (1) or any latrine, urinal, cess-pool, drain or other receptacle so situated as is mentioned in sub-section (2) exists, or may hereafter be constructed, to remove the same within eight days.

(4) Any person who contravenes any provisions sub-sections (1) and (2) shall be liable for every such offence to a fine not exceeding fifty rupees.

(5) Any person who fails to comply with an order under sub-section (3) shall be liable to a fine of fifty rupees and a daily fine of five rupees for every day on which the offence continues.

199. Inspection of latrines, etc.—The Board, or any officer authorised by it in that behalf, may inspect all latrines, urinals, cess-pools, drains and other receptacles for sewage or other offensive matter at any time between sunrise and sunset, after six hours' notice in writing to the occupier of any premises in which such latrines, urinals, cess-pools, drains or receptacles are situated, and may, if necessary, cause the ground to be opened where it or he may think fit for the purpose of preventing or removing any nuisance arising from such latrines, urinals, cess-pools, drains or receptacles, and the expenses thereby incurred if the Board so requires shall be paid by the owner or occupier of such premises.

200. Power to require owner or occupier to repair latrine, etc.—The Board may require the owner or occupier, or the owner and occupier of any land, within fifteen days, to repair and make efficient any latrine, urinal, cess-pool, drain or receptacle for sewage or other offensive matter or to remove or close any latrine, urinal, cess-pool or receptacle which is situated on such land.

201. Penalty for not keeping latrine, etc., in proper order.—If the owner or occupier of any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter neglects or refuses, after warning from the Board, to keep the same in a proper state of repair and efficiency, he shall be liable to a penalty not exceeding fifty rupees and a daily fine not exceeding five rupees for every day on which the offence continues :

Provided that no person liable to pay the tax mentioned in section 59, sub-section (1)(e), shall be punished with a fine for neglecting or refusing to keep his latrine, urinal or cess-pool in a proper state of cleanliness.

202. Power to alter any latrine, etc., made contrary to orders.—(1) If any latrine, urinal, cess-pool, drain or other receptacle for sewage or other offensive matter be defective or be constructed contrary to the directions of the Board, or contrary to the provisions of this Act or any bye-law passed under this Act; or if any person without the consent of the Board, constructs, re-builds or unstops any latrine, urinal, cess-pool, drain or receptacle which has been ordered by it to be demolished or stopped up or not to be made, the Board may cause such amendment or alteration to be made in any such latrine, urinal, cess-pool, drain or receptacle as it thinks fit, or may cause the same to be removed ;

And the expenses thereby incurred shall be paid by the persons by whom such latrine, urinal, cess-pool, drain or receptacle was improperly constructed, re-built or unstopped.

(2) The person by whom such latrine, urinal, cess-pool, drain or receptacle is improperly constructed, re-built or unstopped shall also be liable to a fine not exceeding fifty rupees and a daily fine not exceeding five rupees for every day on which the offence continues.

203. Power to demolish unauthorised drains leading into public sewers.—(1) If any person, without the written consent of the Board first obtained, makes or causes to be made, or alters or causes to be altered, any drain leading into any sewer, drain, water course, road or land vested in the Board, the Board may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as it shall think fit, and the expenses thereby incurred shall be paid by the person making or altering such branch drain without the written consent of the Board.

(2) The person so making or altering such branch drain shall also be liable, for every such offence to a fine not exceeding fifty rupees.

204. Penalty for allowing water of any sewer, etc. to run on any road.—Whoever causes or allows the water of any sink, sewer, latrine, urinal, cess-pool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any road, or causes or allows any offensive matter to run, drain or be thrown into a surface drain near any road, shall be liable to a fine not exceeding twenty-five rupees and a daily fine not exceeding five rupees for every day on which the offence continues.

205. Power to require, owner to drain land.—If any land, being within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the Board, be drained, is not drained to the satisfaction of the Board, the Board may require the owner within one month to drain the said land into such sewer, drain or outlet.

206. Penalty for disobeying requisition under sections 196, 200 or 205.—Any person who fails to comply with a requisition issued by the Board under the provisions of sections 196, 200 or 205 shall be liable, for every such offence, to a fine not exceeding twenty-five rupees and to a further fine not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

207. Power to drain group or block of houses, etc., by a combined operation.—If it appears to the Board that a group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer, drain or other outlet already exists within one hundred feet of any part of such group or block of houses, the Board may cause such group or block of houses to be so drained and improved; and the expense thereby incurred shall be recovered from the owners of such houses in such proportions as shall to the Board seem fit.

Removal of sewage, offensive matter and rubbish.

208. Establishments for removal of sewage, offensive matter and rubbish.—(1) The Board shall provide all establishments, cattle, carts and implements required by it for the removal of sewage, offensive matter and rubbish.

(2) Whenever an order such as is referred to in section 210 shall have been published, no sweeper or other servant of the Board employed to move or deal with sewage, offensive matter or rubbish shall wilfully absent himself from his duties without the permission of the Board, or, unless he has given notice in writing not less than one month previously of his intention so to withdraw, shall withdraw from the employment of the Board without its permission.

(3) Any sweeper or other such persons who, after the said publication, contravenes the provisions of sub-section (2), shall be liable to rigorous imprisonment for a term not exceeding one month, and shall forfeit all salary which may be due to him.

209. Power to require removers of sewage to take out license.—The Board at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of the municipality or any part thereof to take out licenses, and to be servants of the Board for the purpose of removing sewage from premises within the said limits.

210. Removal of sewage, offensive matter and rubbish.—(1) The Board at a meeting may, from time to time, by an order published in the prescribed manner, appoint the hours within which sewage and offensive matter may be moved, the manner in which the same shall be moved, and the hours within which only every occupier of any house or land may place rubbish on the public road adjacent to his house or land in order that such rubbish may be removed by the Board.

(2) The Board may provide places convenient for the deposit of sewage and offensive matter and may require the occupiers of houses to cause the same to be deposited daily or at other stated intervals in such places, and may remove the same at the expense of the occupiers from any house if the occupier thereof fails to do so in accordance with the Act.

(3) The Board may charge such fees as it may think fit in respect of the removal of such rubbish as is referred to in sub-section (1), with the consent of the occupier of any house or land, from such house or land or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

211. Penalty for offence under section 210.—Any person who places or allows his servants to place rubbish on a public road at other than the times appointed by the Board under section 210, sub-section (2), shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

212. Penalty on occupier for not removing filth, etc.—Any occupier of a house on or near a road who keeps or allows to be kept, for more than twenty-four hours, or for more than such shorter time as may be appointed by the Board, otherwise than in some proper receptacle, any bones, ashes, sewage or any noxious or offensive matter in or upon such house, or in any outhouse, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

213. Penalty for throwing offensive matter on roads, etc.—Any person who, without the permission of the Board, throws or puts, or permits his servants to throw or put, any sewage or offensive matter on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, sewage or offensive matter into any sewer or drain belonging to the Board, or into any drain communicating therewith, shall be liable, for every such offence, to a fine not exceeding twenty-five rupees.

214. Maintenance of establishment for cleansing private latrines.—In every municipality or part thereof in which a latrine tax is imposed under section 59, sub-section (1)(e), the Board shall maintain an establishment for the cleansing of private latrines, urinals, cess-pools and other receptacles for sewage or other offensive matter within the municipality or such part thereof.

215. Powers of servants of Board.—All servants of the Board employed for the purposes mentioned in the preceding section may, within such hours as may be fixed by the Board, enter on any premises, of which the occupier or owner is liable to pay latrine tax and do all things necessary for the performance of their duties.

Markets

216. Power to prohibit use of unlicensed markets.—(1) The Board at a meeting may order that within such limits as it may fix, no land shall be used as a market otherwise than under a license to be granted by the Board.

(2) On the issue of an order as in sub-section (1), the Board at a meeting may grant a license for the use of any land as a market:

Provided that the Board shall not—

- (a) refuse a license for the maintenance of a market lawfully established on the date of such order coming into force, if application be made within six months from such date except on the ground that the place where the market is established fails to comply with any conditions prescribed by, or made under, this Act; or
- (b) cancel, suspend or refuse to renew any license granted under such order for any cause other than the failure of the licensee to comply with the conditions of the license, or with any provisions of, or made under, this Act.

217. Penalty for using unlicensed market.—Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market without a license under section 216, shall be liable to a fine not exceeding two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction of such offence.

218. Power to close unlicensed places.—The Magistrate, on the application of the Board, may order any land in respect of which a conviction shall have been obtained under the last preceding section, to be closed as a market-place, and thereupon may make order to prevent such land being so used:

and every person who shall sell or expose for sale any article intended for food or drink or any live-stock or other merchandise on any land which shall have been so closed, shall be liable, for every such offence, to a fine not exceeding ten rupees.

219. Markets, slaughter-houses, etc. to be properly drained.—(1) Every owner occupier or farmer of a market, or of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, shall cause such drains to be made therein as shall be considered sufficient by the Board, and, if required to do so by the Board, shall cause all the floors and drains to be paved with stone or burnt brick, and cemented, and shall also cause a supply of water to be provided, sufficient for keeping such market, place or slaughter-house in a clean and wholesome state.

(2) If any such owner, occupier or farmer, after notice in writing given to him by the Board that such market, place or slaughter house is defective in any of the particulars specified in sub section (1) and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

(3) If the owner, occupier or farmer of a market makes default as aforesaid, the Board may enter into possession of the market and execute such of the works of improvement mentioned in sub-section (1) as it deems fit, and may receive all rents, tolls and other dues in respect of the market and retain possession thereof for recovery of the sum expended by it on the works of improvement:

Provided that the Board shall vacate the market if it appears that the sum expended by it on the works of improvement has been realized; and that the surplus, if any, remaining after the payment of the expenses incurred shall be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Sale of food and drugs.

220 to 230. * * * (Repealed).

231. Registration of shops for sale of drugs recognised by British Pharmacopoea.—(1) No shop or place shall be kept for the retail sale of drugs recognized by the British Pharmacopoea, not being also articles of ordinary domestic consumption, or patent medicines, unless the same shall have been registered in the office of the Board. Any keeper of such shop or place failing to register the same within two months after this Act shall come into force or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one

hundred rupees. The Board shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises.

(2) No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be duly certified as a fit person to be entrusted with such duties under rules made for that purpose by the State Government:

Provided that the provisions contained in this sub-section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect by the State Government.

(3) Nothing in this section, contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines, whether recognized by the British Pharmacopoea or not when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopoea are dispensed upon prescription.

232. Offence under section 231 (1).—Whoever, within a municipality keeps any such shop or place as is mentioned in section 231 without the same being registered, shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

233. Uncertificated persons dispensing drugs.—Whoever within a municipality not being the holder of a certificate referred to in section 231(2) shall in any shop or place, compound, mix, prepare or sell, any drugs, other than those mentioned in section 231(3), shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 50 for each offence, and any owner, occupier or keeper of such shop or place who shall employ any such uncertificated person to perform, any one or more of such duties shall on conviction before a Magistrate, be liable to a fine not exceeding Rs. 200 and if such shop or place be registered under section 231(1) the license shall also be liable to forfeiture at the discretion of the Board:

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification to that effect by the State Government.

234. Inspection of drugs.—The Board, or any person authorized by the State Government or the Board in that behalf, may at all reasonable times enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if it or he has reason to suspect that any drug in the said place is adulterated, or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, may remove the same on giving a receipt therefor, specifying the nature and quantity of the drug removed and its approximate value; and if it appear to a Magistrate that the said drug, removed as aforesaid, is adulterated or has become inert, unwholesome or deteriorated, as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit.

If it shall appear to the said Magistrate that the drug so removed is not adulterated or has not become inert unwholesome or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Magistrate to award him such compensation payable by the Board as he may think proper not exceeding the actual loss which has been sustained.

If the drug removed as aforesaid is not brought before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation from the Board for any actual loss which he may have sustained by the removal of the said drug.

Regulation of factories, workshops, offensive trades, etc.

235. Factory, etc., not to be newly established without permission of the Board.—

(1) No person shall, without the previous written permission of the State Government newly established in any premises of any factory, workshop or workplace in which it is intended to employ steam, water or other mechanical power.

(2) The State Government may refuse to give such permission—

(a) if they are of opinion that the establishment of such factory or workshop in the proposed site (i) would be objectionable by reason of the density of the population in the neighbourhood thereof, or (ii) would be a nuisance to the inhabitants of the neighbourhood, or

(b) for any other sufficient reason, and

(iii) in the marginal heading, for the word "Board" the words "State Government" shall be substituted.

(3) Any person who establishes a factory, workshop or workplace in contravention of sub-section (1) shall be liable to a fine not exceeding five hundred rupees and to a further fine not exceeding fifty rupees for every day during which the factory, workshop or workplace is maintained after he has been convicted of such offence.

236. Certain offensive and dangerous trades not to be established within the limits to be fixed by the Board without license.—(1) Within such local limits as may be fixed by the Board at a meeting, no place shall be used without a license from the Board which shall be renewable annually, for any of the following purposes, namely:—

melting tallow;

boiling oil or blood;

skinning or disembowelling animals;

§[the manufacture of bricks, pottery, tiles or lime in a kiln, *panja* or clamp or by any other similar method];

as a soap-house, oil-boiling house, dyeing house;

as a tannery, slaughter-house; *

as a manufactory or place of business from which offensive or unwholesome smells may arise;

as a yard or depot for hay, straw, thatching grass, jute, or other dangerously inflammable material for the purpose of any trade;

any store-house for kerosine, petroleum, naphtha or any inflammable oil or spirit,

as a shop for the sale of meat;

as a place for the storage of rags or bones, or both.

(2) Such license shall not be withheld unless the Board has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the neighbourhood.

(3) The Board at a meeting may, subject to such restrictions (if any) as it may impose, extend the provisions of this section to yards or depots for trade in coal, coke, timber or wood.

236A. (1) No premises shall be kept open for the purposes of regular gain by means of public cinematographic exhibitions, dramatic performances, circuses, variety shows, or as a place of public resort for similar recreations or amusements unless a license has been granted therefor by the Board at a meeting, which license shall be annually renewable, and in accordance with such conditions as the Board, subject to rule, may think fit to impose:

Provided, firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such premises under any other Act;

Provided, secondly, that this section shall not apply to private amateur performances or to performances held wholly for the benefit of a charity, in any such place; and

Provided, thirdly, that notwithstanding the provisions of section 59(2) the imposition of a license fee exceeding rupees one hundred on any cinema house or other place of amusement as aforesaid shall require the approval of the State Government.

(2) No place within the municipality shall be used for the cinematographic performances, circuses, variety shows, or as place of public resort for similar recreations or amusements, otherwise than for the purpose of regular gain, unless a license has been granted for such purpose by the Board and in accordance with such conditions as the Board subject to rule, may think fit to impose:

Provided firstly, that such conditions shall not be inconsistent with the terms of any license which may be required for such premises under any other Act;

Provided, secondly, that this sub-section shall not apply to private amateur performances or to a performances held wholly for the benefit of a charity, in any such place; and

Provided, thirdly, that notwithstanding the Provisions of sub-section 59, the Board may charge a fee for such license not exceeding such maximum amount as the State Government may from time to time prescribe

216 THE GAZETTE OF INDIA: PART II
(3) If within a period of three months following the receipt of an application for license under sub-section (1) or (2) of this section the Board at a meeting or the Board, as the case may be, has not passed orders thereon, either granting or refusing a license, it shall be deemed to have granted the license.

236B. (1) Subject to the provisions of section 236-D any license granted under section 236-A, by the Board at a meeting or the Board, as the case may be, may, at any time, be suspended or revoked by the authority granting the license, if any of the restrictions, limitations, or conditions attached to the license be evaded or infringed by the grantee, or if the grantee be convicted of a breach of any of the provisions of the Act or of any rule or bye-law made thereunder in any matter to which such license relates, or if the grantee has obtained the same by misrepresentation or fraud.

(2) When any such license is suspended or revoked, and until such order of suspension or revocation is cancelled, or when the period for which it was granted, or the period within which application for renewal should be made, has expired, whichever expires later, the grantee shall for purposes of this Act, or any rule or bye-law made under the Act, be deemed to be without a license.

236C. Every order granting, refusing, suspending, revoking or modifying a license under Section 236-A, or Section 236-B, as the case may be, shall be in writing, shall state the grounds on which it proceeds, shall be published on the notice board of the Board's Office, and shall be served on the owner of the premises concerned within fourteen days.

236D. Any person aggrieved by an order granting, refusing, suspending, or revoking a license under Section 236-A, or Section 236-B, as the case may be, may, notwithstanding anything contained elsewhere in this Act, appeal—

(a) to the State Government in the case of an order passed by the Board at a meeting;

(b) to the Deputy Commissioner in the case of an order passed by the Board:

Provided that no such appeal shall be entertained unless it is received within thirty days of the order complained of.

The decision of the State Government, or the Deputy Commissioner as the case may be shall be final, and shall not be questioned in any court.

237. Power to order the use of slaughter-houses and the carrying on of dangerous and offensive trades to be discontinued.—(1) If it be shown to the satisfaction of the Board at a meeting that any place licensed under section 236 is a nuisance to the neighbourhood, it may, notwithstanding anything contained in the said section give notice to the occupier to discontinue the use of such place within one month after the date of such notice:

Provided that no such notice shall be given until the licensee shall have been given reasonable opportunity of showing cause against such notice and the Board shall refund so much of any fee levied in respect of such place under section 59, sub-section (2), as may be proportionate to the unexpired portion of the year for which the license was granted.

(2) If any person, after the expiration of the time specified in a notice issued by the Board under the provisions of sub-section (1), uses or permits to be used the place specified in such notice in such a manner as to be a nuisance to the neighbourhood, he shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding forty rupees, for each day during which the offence is continued after he has been convicted of such offence.

238. Power to prohibit private kilns.—Within such local limits as may be fixed by the Board at a meeting, no place shall without the permission of the Board be used [for the manufacture of bricks, pottery, tiles or lime in a kiln, *panja* or clamp or by any other similar method] for private purposes.

239. Penalty for offence under sections 236 and 238.—Any person who—

(1) without a license uses any place for any of the purposes specified in section 236 or uses any place [for the manufacture of bricks, pottery tiles or lime] in contravention of the provisions of section 238; or

(2) being holder of a license under section 236, breaks any condition of such license;

(3) uses any premises for the purposes of public cinematographic exhibitions, dramatic performances, circuses or variety shows, or as a place of public resort for similar recreations of amusements, in contravention of the provisions of Section 236-A.

shall be liable to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees for every day during which the offence is continued after he has been convicted of such offence.

Infectious and contagious diseases.

240. Information to be given of infectious diseases.—Any person who—

- (a) being a medical practitioner or a person openly and constantly practising the medical profession, and in the course of such practice becoming cognizant of the existence of any infectious or contagious disease in any dwelling other than a public hospital or, in default of such medical practitioner or person practising the medical profession,
- (b) being the owner or occupier of such dwelling and being cognizant of the existence of any such disease therein, or, in default of such owner or occupier,
- (c) being the person in charge of, or in attendance on, any person suffering from any such disease in such dwelling and being cognizant of the existence of the disease therein.

fails to give information forthwith to such officer as the Board may direct, or gives false information, respecting the existence of such disease, shall be punishable with fine which may extend to fifty rupees:

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be punishable if it be shown that he had reasonable cause to suppose that the information had been or would be, duly given.

241. Removal to hospital of patients suffering from infectious diseases.—In any municipality to which this section may at any time be extended by the State Government, when any person suffering from any infectious or contagious disease is found to be—

- (a) without proper lodging or accommodation, or
- (b) living in a serai or other public hostel, or
- (c) living in a room or house which neither he nor anyone, of whom he is a dependant, either owns or pays rent for,

the Board, by any person authorised by it in this behalf, may, on the advice of any medical officer of rank not inferior to that of an Assistant Surgeon, remove the patient to any hospital or place at which persons suffering from such disease are received for medical treatment, and may do anything necessary for such removal.

242. Disinfection of buildings and articles.—(1) If the Board is of opinion that the cleansing or disinfecting of a building or any part thereof or of any article therein, which is likely to retain infection, will tend to prevent or check the spread of any disease, it may, by notice, require the owner or occupier to cleanse or disinfect the same in the manner and within the time prescribed in such notice.

(2) If—

- (a) within the time specified as aforesaid from the receipt of the notice the person on whom the notice is served fails to have the building or part thereof or the article disinfected as aforesaid, within the time fixed in the notice, or

- (b) the occupier or owner, as the case may be, gives his consent,

the Board may, at the cost of such owner or occupier, cause the building or part thereof and articles to be cleansed and disinfected:

Provided that the Board may in its discretion pay the whole or any part of such cost.

243. Penalty for letting infected house.—Every person knowingly letting a house or other building or part of a house or building in which any person has been suffering from an infectious or contagious disease, without having such house or other building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the Board, shall be liable to a penalty not exceeding two hundred rupees.

For the purpose of this section a hotel or lodging-house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging-house.

244. Provision of places and appliances for disinfection.—The Board may—

- (a) provide proper places, with all necessary attendants and apparatus, for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection, and
- (b) cause conveyances, clothing, or other articles brought for disinfection to be disinfected free of charge or subject to such charges as may be approved by it, and
- (c) direct any clothing, bedding or other articles likely to retain infection to be disinfected or destroyed, and shall give compensation for any article destroyed under this sub-section.

245. Acts done by person suffering from certain diseases.—Whoever, while suffering from an infectious, contagious or loathsome disease—

- (a) makes or offers for sale any article of food or drink for human consumption or any medicine, drug or clothing or
 - (b) wilfully touches any such article, medicine, drug or clothing, when exposed for sale by others, or
 - (c) takes any part in the business of washing or carrying soiled clothes,
- shall be punishable with fine which may extend to twenty rupees.

246. Exposure of person suffering from infectious disease.—In any municipality to which this section may be extended by the Local Government, any person who—

- (a) while suffering from any infectious or contagious disease wilfully exposes himself in any road, public place, shop, bazar or any place used in common by persons other than members of the family or household to which such infected person belongs, or causes or suffers himself to be carried in a public conveyance, without proper precautions against spreading the said disease; or
 - (b) being in charge of any person so suffering, so exposes such sufferer, or so carries or permits him to be carried in a public conveyance;
- shall be punishable with fine which may extend to twenty rupees.

247. Power of entry for purpose of preventing spread of disease.—The Board may authorize any officer to enter, at any time between sunrise and sunset, after three hours' notice into any building or premises in which any infectious or contagious disease is reputed or suspected to exist, for the purposes of inspecting such building or premises.**248. Power to close market.**—(1) The Board may, with a view to preventing the spread of any infectious or contagious disease, order that, for a specified time, any market within the municipality shall be closed, or forbid any persons to attend any such market.

(2) Such order shall be publicly notified, in such manner and at such places as the Board shall direct, and notice thereof shall be served on the owner, occupier or farmer of the market.

(3) After complying with the notice, the owner, occupier, or farmer of the market or any person interested may appeal to the Deputy Commissioner, or where the Deputy Commissioner is the Chairman of the Municipality, to the Chief Commissioner if he considers the notice to be unreasonable, and the order of the Deputy Commissioner or of the Chief Commissioner shall be final.

(4) When an order has been notified under sub-section (2), and has not been set aside under sub-section (3), any owner, occupier or farmer of a market who neglects to close the market shall be liable to a fine which may extend to five hundred rupees; and any person who attends such market in contravention of the terms of the order shall be liable to a fine which may extend to fifty rupees.

249. Power to close school.—(1) The Board may, by notice, require the manager of any school situated within the municipality for a specified time with a view to preventing the spread of disease for any danger to health likely to arise from the condition of the school, either to close the school or to exclude any scholars from attendance; and the manager shall comply with the notice.

(2) After complying with the notice, the manager may appeal to the Deputy Commissioner, or, where the Deputy Commissioner is the Chairman of the Municipality, to the Commissioner, if he considers the notice to be unreasonable, and the order of the Deputy Commissioner or the Commissioner or of the State Government as the case may be shall be final.

(3) Any manager who fails to comply with the notice under sub-section (1) shall be liable to a fine which may extend to fifty rupees.

Explanation.—Manager shall include Head Master, Secretary or other person directly managing the school.

Extinction of fire.

250. Establishment and maintenance of fire brigade.—(1) For the prevention and extinction of fire, the Board at a meeting may resolve to establish and maintain a fire-brigade and to provide any implements, machinery, or means of communicating intelligence which the Board may think necessary for the efficient discharge of their duties by the brigade.

(2) The Board at a meeting may recognize and aid a volunteer fire-brigade and provide for the guidance, training, discipline and conduct of the members thereof.

251. Powers of fire-brigade and other persons for suppression of fires.—(1) On the occasion of a fire in a municipality, any Magistrate, any member of a Municipal Board, any member of a fire-brigade maintained by the Board, then and there directing the operations of men belonging to the brigade, and if directed so to do by a Magistrate or by a member of a Municipal Board, any police officer above the rank of constable, may—

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire, or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire or preventing its spread, break into or through or pull down or cause to be broken into or through or pulled down, or use for the passage of any house or other appliance, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred;
- (e) call on the persons in charge of any fire engine to render such assistance as may be possible;
- (f) generally take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

Burial and burning grounds and the disposal of corpses.

252. Powers in respect of burial and burning places.—(1) The Board may, by public notice, order any burial or burning ground situated within municipal limits or any municipal burial or burning ground outside such limits which is certified by the civil surgeon or health officer to be dangerous to the health of persons living in the neighbourhood, to be closed, from a date to be specified in the notice, and shall, in such case if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.

(2) Private burial places in such burial grounds may be excepted from the notice, subject to such conditions as the Board may impose in this behalf:

Provided that the limits of such burial places are sufficiently defined and that they shall only be used for the burial of members of the family of the owners thereof.

(3) No burial or burning ground, whether public or private, shall be made or formed within the municipality after the commencement of this Act, without the permission in writing of the board.

(4) Should any person, without the permission of the Board, bury or burn or cause, or permit, to be buried or burnt, any corpse at any place which is not a burial or burning ground or in any burial or burning ground made or formed contrary to the provisions of this section, or after the date fixed thereunder for closing the same, he shall be punishable with fine which may extend to fifty rupees.

253. Power to cause corpses to be burnt and buried according to the religious tenets of the deceased.—After the expiration of not less than twenty-four hours from the death of any person, the Board may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case, the corpse shall be disposed of, so far as may be possible, in manner consistent with the religious tenets of the deceased.

Disorderly houses and persons.

254. Power over disorderly houses and prostitutes.—(1) The Board at a meeting may, by one month's notice in writing, prohibit in any specified part of the municipality—

- (a) the keeping of a brothel;
- (b) the residence of a public prostitute.

(2) Whoever contravenes an order notified under sub-section (1) shall be punishable with imprisonment for a term which may extend to eight days or with fine which may extend to fifty rupees, and in the case of a continuing failure with an additional fine not exceeding five rupees for every day after the first in regard to which he or she is convicted of having persisted in the failure.

255. Brothels.—On the complaint of the Board, or of three or more inhabitants of a municipality, that a house within the limits of the municipality is used as a brothel, or by disorderly persons of any description, to the annoyance of the inhabitants of the vicinity, or that any such house is used as a brothel in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, any magistrate of the first class, having jurisdiction in the place where the house is situated, may summon the owner or tenant of the house and on being satisfied that the house is so used and that it is a source of annoyance to the neighbours or that it is in the neighbourhood of a cantonment or of an educational institution or hostel or of any place of worship, may order the owner or tenant to discontinue such use of it; and, if he shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used.

Mad and stray dogs

256. Disposal of mad and stray dogs.—The Board, by any person authorized by it in this behalf, may—

- (i) destroy or cause to be destroyed, or confine, or cause to be confined, for such period as the Board may direct, any dog suffering from any loathsome disease or from rabies, or reasonably suspected to be suffering from rabies, or bitten by any dog or other animal suffering or suspected to be suffering from rabies;
- (ii) confine, or cause to be confined any dog found wandering about streets or public places without a collar or other marks distinguishing it as private property and charge a fee for such detention, and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee paid;
- (iii) appoint from time to time, by public notice, certain periods within which any dogs without collars distinguishing them as private property, found straying on the streets or beyond the enclosures of houses of the owners of such dogs, may be destroyed and destroy, or cause them to be destroyed accordingly.

Education.

257. Schools.—(1) Subject to rule and to such exceptions as the State Government may think fit, the Board may contribute towards, or be charged with, and be responsible for—

- (a) the establishment, maintenance and management of all primary and middle vernacular schools under public management within the municipality;
- (b) the whole or any part of the cost of the construction and repairs of all buildings connected therewith; and
- (c) subject to the provisions of section 44 the appointment and payment of all masters and assistant masters thereof.

(2) Subject to as aforesaid, the Board may, with its own consent, be charged with, and made responsible for, the establishment, maintenance and management of any other schools or class of schools within the municipality, or may make grants-in-aid to any such schools, whether they are under public or private management.

- (3) Subject to as aforesaid, the Board may award stipends or scholarships.

Medical

258. Dispensaries, hospitals, asylums, poor-houses and medical relief.—Subject to rule, the Board may—

- (a) establish and maintain, within the municipality, dispensaries, hospitals, asylums and places for the reception of the sick or destitute, or contribute towards the cost of the establishment and maintenance of such institutions;
- (b) with the previous sanction of (or by) the Chief Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the establishment or maintenance of any dispensary, hospital, asylum or place for the reception of the sick or destitute, which is situated outside the municipality, but is, or may be, ordinarily used by the inhabitants of the municipality;
- (c) provide for the payment of allowances to medical practitioners for professional services rendered to the establishment employed by the Board;
- (d) provide medicines or medical assistance for the poorer inhabitants of the municipality or take such measures as may appear to it to be necessary including the temporary employment of medical practitioners during the prevalence of diseases in the municipality;
- (e) provide for the payment of expenses of any of the poorer inhabitants of the municipality for journeys to and from any hospital established in any part of India for the treatment of special diseases, and of their subsistence thereat, according to such scale as may be fixed of (or by) the Chief Commissioner.

Registration of births and deaths

259. Registration of births and deaths.—Any Board, when required by the State Government to do so, shall provide for the registration of births and deaths within the limits of the municipality in accordance with the provisions of the Bengal Births and Deaths Restriction Act, 1873 [IV (B.C.) of 1873], or any other similar Act for the time being in force.

260. Appointment of Sub-Registrars at burning-ghats and burial-grounds.—The State Government may require any Board to appoint at any burning-ghat and burial-ground a Sub-Registrar for the reception of the corpses brought to such burning-ghat or burial-ground for

261. Information required by Bengal Act IV of 1873 to be given to such Sub-Registrar.—Whenever a Sub-Registrar shall have been appointed for any burning-ghat or burial-ground under the last preceding section, information of the particulars required by section 8 of the Bengal Births and Deaths Registration Act, 1873, [IV (B.C.) of 1873], to be known and registered may be given in respect of the death of any person whose body is brought to such burning-ghat or burial-ground for cremation or interment to such Sub-Registrar, and information so given shall be deemed to be information given to the Registrar of the District as required by the said section.

Section 9 of the said Act shall be applicable to all Sub-Registrars appointed under this Act.

262. Information of deaths in hospitals.—Whenever a death shall occur in any hospital within the limits of any municipality in respect of which the State Government has directed that all deaths shall be registered under the Bengal Births and Deaths Restriction Act, 1873, [IV (B.C.) of 1873], it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the Board in such form as the State Government may prescribe, and in such case no other person shall be required to give information of such death to a Registrar under the said Act or to a Sub-Registrar under this Act.

CHAPTER VII**WATER-SUPPLY, LIGHTING AND DRAINAGE SYSTEMS***Introduction of schemes*

263. Sanction of scheme by State Government.—The State Government may, on the application, in accordance with rule, of any Municipal Board at a meeting, or of any such Board acting conjointly with any one or more of the local authorities

specified in section 43, sanction a scheme for the supply of water or electricity, or for the introduction of a system of lighting, telephony, drainage or sewerage.

264. Scheme to be carried out by municipalities.—When a scheme has been sanctioned by the Local Government under the last preceding section, the Municipal Board or any of the other local authorities concerned, or a joint-committee constituted under section 43, shall, if the tax and other moneys to be collected, received or recovered for or in respect of the supply of water or electricity or the lighting, telephony, drainage or sewerage system, be sufficient for the purpose, proceed to carry it out, or cause it to be carried out.

265. State Government may appoint an officer to execute the works.—The State Government may order the works specified in any scheme as aforesaid, or any portion thereof, to be executed by an officer to be appointed by it, and §[may] fix the remuneration of such officer (provided that the cost of the scheme as sanctioned be not exceeded): and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

General provisions relating to the laying and connecting of pipes, sewers and the like.

266. Power of Board to lay or carry wires, pipes, drains, or sewers through private land, subject to payment of compensation for damage sustained provided that no nuisance is created.—The Board may carry any cable, wire, pipe, drain, sewer or channel of any kind for the purpose of establishing telephonic or other similar communication or of providing or of carrying out and establishing or maintaining a system of water-supply, lighting, drainage or sewerage, through, across, under or over any road, or place laid out as or intended for a road, and, after giving reasonable notice in writing to the owner and occupier, into through, across under, over or up the side of any land or building whatsoever situate within the limits of the municipality, and, for the purpose of introduction, distribution or outfall of water or for the removal or outfall of sewage, without such limits, and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel, as the case may be, in an effective state for the purpose for which the same may be used or intended to be used:

Provided that no nuisance more than is necessarily caused by the proper execution of the work is created by any such operation: and

Provided, further, that reasonable compensation shall be paid to the owner or occupier or both for any damage at the time sustained by him or them and directly occasioned by the carrying out of any such operations.

267. Provisions as to wires, pipes, drains or sewers laid or carried above surface of ground.—In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up the side of any building, such cable, wire, pipe, drain, sewer or channel, as the case may be, shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and reasonable compensation shall be paid in respect of any substantial interference with any such right to such enjoyment.

268. Previous notice to be given.—Except as otherwise provided the Board shall cause not less than fourteen days' notice in writing to be given to the owner or occupier before commencing any operations under section 266.

269. Power to permit connections with main.—(1) Subject to rule, the Board may, on the application of the owner or occupier of any premises, make, or cause or permit to be made, any connection or communication to such premises from any cable, wire, pipe, drain, sewer or channel constructed or maintained by or vested in the Board, on such terms as the Board in meeting may from time to time determine.

(2) Any person who shall, without the permission of the Board, make or cause to be made, any such connection or communication, or flush, draw off, divert, take or use water, electricity, or gas from any works belonging to, or under the control of, the Board, or divert or take water from any water or stream by which water-works belonging to, or under the control of, the Board, are supplied, shall be liable to a fine not exceeding one hundred rupees.

270. Power to make or require connections in certain cases.—In municipalities to which the provisions of this section may at any time, by notification, be extended by the State Government, the Board may establish any connection or communication from any drain or sewer to any premises, or may by notice require the owner

or occupier of any such premises to establish any such connection or communication, in such manner and within such time as the Board by notice in that behalf may prescribe, at the cost of such owner or occupier.

271. Power to prescribe size of ferrules and to establish meters and the like.—The Board may prescribe the size of the ferrules to be used for the supply of gas, and water, and may establish meters or other appliances for the purpose of testing the quantity or quality of any gas or electricity supplied to the premises of any person or to or for the use of any person or business.

272. Communications and connections to be made subject to inspection by and to the satisfaction of Board.—All work in connection with the ferrules, communication pipes connections, meters, stand-pipes, and all fittings thereon or connected therewith, leading from mains or service cables, wires, pipes, drains, sewers or channels into any house or land, and the wires, pipes, fittings and works inside any such house or within the limits of any such land, shall in all cases be executed subject to the inspection and to the satisfaction of the Board.

273. Connections may be made by Board's own agency.—The Board may require such ferrules, communication-pipes, connections, meters, stand-pipes and fittings to be supplied and fitted by its own agency upon such terms as may be agreed upon between it and the person requiring the connection or communication, or subject to such charges as may be fixed by the Board; and may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

274. Power to enter premises.—Any Officer authorized in that behalf by the Board may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land for the purpose of inspecting or repairing gas, water, telephonic, electric or other installations, and for taking readings of meters connected therewith;

And, if such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the Board may forthwith cut off the supply of gas, water or electricity, as the case may be, from such house or land:

Provided that nothing hereinbefore contained shall authorise, an entry into any room appropriated for the zenana or residence of women, which by the custom of the country is considered private, unless a notice in writing of not less than four hours is given.

275. Presumption as to correctness of meter.—Whenever water, electricity or gas is supplied under this chapter through a meter, it shall be presumed that the quantity or quality indicated by the meter has been consumed until the contrary is proved.

276. Testing of meter.—(1) If the owner or occupier of any premises to which water, electricity or gas is supplied through a meter desires to have the meter tested, he may send a written application to the Board, and such application must be accompanied by a fee of five rupees.

(2) Upon receipt of any such application and fee, the Board shall forthwith cause such meter to be tested, at a time and place to be specified in a notice to be served upon such owner or occupier.

(3) If such meter is found, upon being so tested, to be incorrect by more than two per cent. the said fee shall be returned to the person who sent it.

277. Penalty for fraud in respect of meter.—(1) Any person who shall fraudulently—

(a) alter the index to any meter, or prevent any meter from duly registering the quantity or quality of water, electricity or gas supplied, or

(b) abstract or use water, electricity or gas before it has been registered by a meter set up for the purpose of testing the quantity or quality of the same,

shall be liable to a fine not exceeding one hundred rupees.

(2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention; abstraction or use shall be evidence that the consumer has fraudulently effected the same.

278. Penalty for injuring meter.—Any person who shall wilfully or negligently injure or suffer to be injured any meter or any of the fittings of any meter shall be liable to a fine not exceeding one hundred rupees.

279. Estimate and specification of works to be sent.—No works for establishing any such connection or communication as is referred to in section 269 shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

280. Owner to bear the cost of keeping works in repair.—Except in the case of a special agreement to the contrary, the owner of any premises shall bear the expense of keeping any such connection or communication with such premises as is referred to in sections 269 and 270 and all works connected therewith in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the commencement of this Act.

Special provisions relating to water-supply systems

281. Board to provide water-supply.—(1) In any municipality in which the imposition of a water-tax has been sanctioned by Local Government under section 59, sub-section (1) (c), the Board shall provide a supply of water within the limits of the municipality for domestic purposes; and for this purpose it shall be lawful for it to cause mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public roads; and it may also erect in all such roads sufficient and convenient stand-pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.

(2) The Board may supply water for other than domestic purposes.

282. Pressure at which water must be kept.—The Board at a meeting shall determine what pressure of water shall be maintained in its service-pipes and mains, and during what hours such pressure shall be continued; and any order made under this section shall be published in such manner as the Board may direct, and shall not be altered except with the sanction of the Board at a meeting.

283. Provision for water-meter.—(1) The Board may provide a water-meter and attach it to the communication-pipe of any premises to which water is supplied by the Board, and whenever a water-meter is provided the Board shall maintain it in an efficient state.

(2) When any meter attached to the communication-pipe of any premises is out of order or under repair, the Board shall forthwith replace it by another meter.

(3) The expense of providing, attaching and replacing a meter under sub-sections (1) and (2) may, at the discretion of the Board, be borne by the municipal fund, or may be recovered wholly or in part from the person requiring the supply, or, if the communication-pipe has been laid down before the commencement of this Act, from the owner of the premises, except in the case of a special agreement to the contrary between the owner and the occupier, with or without interest and in one instalment or more than one instalment according as the Board thinks proper; and, if the expense as aforesaid or any part of it is borne by the municipal fund, the Board may recover rent for the meter at such rate as may be fixed by it.

284. Householder entitled to certain supply of water for domestic use.—(1) The Board at a meeting may determine what quantity of water shall be supplied for domestic purposes to the occupier of any premises free of further charge for every rupee paid to the Board as water-tax on account of such premises.

(2) Any water which may be used for domestic purposes over and above the quantity to which the occupier is entitled as aforesaid, and any water which may be used for other than domestic purposes, shall be paid for by him at such rate as the Board at a meeting may determine.

285. Power to provide water for latrines.—It shall be at the option of the Board to provide water for all latrines and water closets, and it shall be lawful for it to require that all latrines and water-closets supplied with water shall be provided with a cistern of such size and description as the Board shall direct, and all such cisterns shall be put up at the cost of the owner of the premises so supplied with water.

286. Power to turn off water.—The Board may cause the water to be turned off from any premises which are supplied with water after giving notice in writing of not less than twenty-four hours—

(a) if the premises are unoccupied; or

(b) if the person liable to pay the water-tax or any charge made under section 283(3) or 284(2) neglects to pay the same; or

- (c) if any pipes, works, fittings or meters connected with the supply of water and being the property of the owner or occupier are found, on examination by any officer of the Board authorised in that behalf, to be out of repair to such an extent as to cause the waste of water; or
- (d) if the owner or occupier of the premises wilfully or negligently misuses or causes waste of water;

and may recover from the owner or occupier of such premises, or from the person liable to pay the water-tax or the charge, as the case may be, the expenses incurred for turning off the water:

Provided that the stopping or cutting off of the supply of water shall not relieve any person from any penalties or liabilities which he may have incurred.

287. Penalty for causing waste of water.—(1) The occupier of any premises, in which water supplied by the Board under this chapter is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works, fittings or meters for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

(2) Any person otherwise causing waste of water supplied by the Board shall be liable to a fine not exceeding five rupees.

288. Power to allow persons outside the town to take water.—It shall be within the discretion of the Board to allow any person not residing within the limits of the municipality to take or be supplied with water for domestic use, on such terms as the Board in meeting may from time to time determine;

And any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the Board, without the permission of the Board, shall be liable to a fine not exceeding fifty rupees.

CHAPTER VIII

CONTROL

289. Control by Commissioner, Deputy Commissioner, etc.—The Chief Commissioner, the Deputy Commissioner, the Magistrate in charge of the sub-division or any officer of Government authorised in that behalf by the State Government, by a general or special order may at all times—

- (1) enter upon or into and inspect, or for the purpose of his own inspection, cause any other person to enter upon or into—
 - (a) any immovable property in the occupation, or
 - (b) any work in progress under the orders, or
 - (c) any institution under the control and administration, of the Board; and
- (2) call for and inspect any book or document which may be, for the purpose of this Act, in the possession or under the control of the Board.

290. Inspector of Municipal Works.—(1) The State Government may—

- (a) appoint an officer of the Government to be Inspector of Municipal Works for one or more municipalities; and
- (b) direct what establishment shall be maintained for him.

(2) The Inspector of Municipal Works shall perform such duties and exercise such powers as may be assigned to him by rule.

(3) In particular and without prejudice to the powers referred to in sub-section (2), the Inspector of Municipal Works may at all times enter upon or into and inspect, or cause any other person to enter upon or into and inspect, any immovable property in the occupation, or any work in progress, under the orders of the Board of any municipality within his charge, and the Board shall furnish such statements, estimates and reports as he may require.

(4) A report of every inspection made under this section shall be prepared, and a copy thereof shall be forwarded, through the Deputy Commissioner, to the Board.

(5) The Board within the charge of an Inspector of Municipal Works shall, in all matters of professional detail, be guided by his report.

291. Power to suspend action under Act.—The Chief Commissioner or the Deputy Commissioner may, by order in writing, suspend the execution of any

220 THE CHIEF OF P.
resolution or order of the Board or prohibit the doing of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, or in pursuance of any sanction or permission granted by the Board in the exercise of their powers under this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

When the Deputy Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the State Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently or for such period as it thinks fit.

292. Powers of State Government in case of default, and of Deputy Commissioner in case of emergency, etc.—(1) If at any time it appears to the State Government that the Board have made default in performing any duty imposed on them by or under this or any other Act, the State Government may, by an order in writing, call upon the Board to perform the duty within such time as may be appointed by such order.

(2) If such duty is not performed within such period, the State Government may, after considering any representation which the Board may submit, either revoke or modify the order or appoint some fit and proper person to perform the duty.

(3) If, in any case of emergency, the Deputy Commissioner, upon the recommendation of the chief technical adviser immediately available in the district within which the municipality is situated, is of opinion that the immediate execution of any work or the immediate doing of any act which the Board, whether at a meeting or otherwise, are empowered to execute or do, is necessary for the health or safety of the public, he may call upon the Board to execute the work within such time as he may appoint. If such work is not executed within such period he may appoint some fit and proper person to execute the work or do the act immediately.

The Deputy Commissioner shall forthwith report to the Chief Commissioner every case in which he uses the powers conferred on him by this sub-section whereupon the Chief may pass such orders as he thinks fit.

(4) Where any person is appointed under sub-section (2) or sub-section (3), the State Government or, subject to any orders which may be passed by the State Government under sub-section (3), the Deputy Commissioner, as the case may be, may direct that the expense of performing the duty, executing the work or doing the act, together with reasonable remuneration to the person so appointed, shall forthwith be paid by the Board.

(5) Where such expense and remuneration are not so paid, the Deputy Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense and remuneration, or so much thereof as is possible from the balance, in priority to any or all other charges against the same, and such person shall make payment accordingly.

293. Power to supersede Board in case of incompetence default or abuse of powers.—If in the opinion of the State Government, the Board are not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act or otherwise by law, or exceed or abuse their powers, the State Government may, by notification stating the reasons for so doing, declare such Board to be incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in notification or dissolve the Board and order a fresh election.

294. Consequences of supersession.—When an order of supersession shall have been passed under the last preceding section, the following consequences shall ensue:

- (a) all the members of the Board shall, as from the date of the order, vacate their offices as such members;
- (b) all the powers and duties which under the Act may be exercised and performed by the Board, whether at a meeting or otherwise, shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct;
- (c) all property vested in such Board shall, during the period of supersession, vest in the Government.

On the expiration of the period of supersession specified in the order, the Board shall be re-established, and the persons who vacated their offices under clause (a) shall not be deemed disqualified by reason merely of such order of supersession for re-appointment or re-election.

295. Disputes.—(1) If any dispute, for the decision of which this Act does not otherwise provide, arises between the Boards of two or more municipalities constituted under this Act, or between the Board of any such municipality and a cantonment authority or any other local authority, the matter shall be referred to the Deputy Commissioner.

(2) Save as provided in sub-section (4) the decision of the authority to which any dispute is referred under this section shall be final.

(3) If in the case mentioned in clause (a) the Deputy Commissioner is a member of one of the Local authorities concerned, his functions under this section shall be discharged by the Chief Commissioner.

(4) An appeal shall lie to the Chief Commissioner against a decision of a Deputy Commissioner.

CHAPTER IX

RULES AND BYE-LAWS

Rules

296. Power of State Government to make rules.—(1) The State Government may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may—

- (i) regulate the division of each municipality into wards [or of the municipal voters into sections]¶ and [subject to the provisions of sections 10 and 14 of this Act] ¶fix the number of members to be elected for each of such wards, [or sections,] ¶provide for the distribution of elected members among the different sections of the community, determine the mode and time of election of members, the qualifications the acts to be deemed corrupt practices at elections, and regulate and determine the procedure to be followed by a Judge inquiring into election petitions.
- (ii) regulate the manner in which the minutes of the proceedings of meetings of the Board shall be published;
- (iii) prescribe the manner in which bye-laws, notices, orders and other documents directed to be published under the Act shall be published;
- (iv) regulate the keeping, checking and publication of accounts and the manner of periodical audit;
- (v) provide for the retention of adequate working or closing balances;
- (vi) provide for the preparation of plans and estimates for works to be partly or wholly constructed at the expense of the Board, and determine, according to the nature of the staff entertained by the Board, the persons by whom and the conditions subject to which such plans and estimates are to be sanctioned;
- (vii) regulate the form and procedure to be followed in the preparation of budget estimates by the Board, and prescribe the authority by whom, and the conditions subject to which, such estimates may be sanctioned, provided that such rules shall not empower such authority to refuse to sanction such estimates except on the following grounds :—
 - (1) That the minimum closing balance prescribed has not been maintained.
 - (2) That due provision has not been made for the purposes specified in section 52(1) (a), (b) and (c).
 - (3) That the provisions of the Act and the rules and any standing orders of State Government have not been complied with.
- (viii) regulate the preparation, submission and publication of returns, statements and reports by the Board;
- (ix) prescribe forms for any proceedings of the Board for which it considers that a form should be provided;
- (x) prescribe the maximum fees which may be levied by the Board under section 59, sub-sections (1) (h) [and] ¶(i)..... * *

- (xi) prescribe the mode of ascertaining the capitalised value recoverable under clauses (c) and (d) of proviso (1), section 129;
- (xii) provide, in matters not specifically provided for in the Act, for the valuation of holdings and for the assessment, collection and refund of taxes imposed under the Act;
- (xiii) fix the fees payable upon distraints under this Act;
- (xiv) prescribe the qualifications of candidates for employment by the Board and declare what circumstances shall be a disqualification for continuance of such employment;
- (xv) prescribe the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications;
- (xvi) prescribe the proportion of the pay and allowances of Government officers employed by the Board, which shall be borne by the Board, and provide for the control of such officers;
- (xvii) * * *
- (xviiia) regulate the conditions which may be imposed for the grant of licenses for places of public resort for recreations and amusements.
- (xviii) prescribe the conditions subject to which the Board (a) may permit connections and communications to be made between private houses or premises and mains or service cables, wires, pipes, drains, sewers and other channels established or maintained by the Board; (b) may direct that such connections and communications shall be cut off.
- (xix) provide for the regulation, management and inspection of the working of systems of water-supply, electricity, lighting, telephone, drainage or sewerage provided, established or maintained by or under the control and administration of any Municipal Board;
- (xx) generally provide for the guidance of the Board and officers of Government in all matters connected with the carrying out of the provisions of this Act, and for settling their relations to one another :

Provided that rules under sub-clauses (xviii) and (xix) shall not be inconsistent with those under the Indian Electricity Act of 1910 (as amended).

(3) In making rules under clause (i) of sub-section (2) the State Government may direct that a breach of any rule, so far as it prohibits corrupt practices at elections, shall be punishable with a fine not exceeding five hundred rupees.

All rules made under this section shall be subject to the condition of previous publication and to the further condition that the rules shall be laid before the State Legislature. After the rules have been so laid the State Legislature may annul or modify the rules or any of them but without prejudice to the validity of anything previously done thereunder.

By-laws

297. Power to make bye-laws.—The Board may, from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such bye-laws as they deem fit, not being inconsistent with this Act, or with any other general or special law, for—

- (i) regulating traffic, and preventing obstructions and encroachments and nuisances on or near roads, or on or near pontoons, bridges, ghats, landing places, river banks or other places of public resort or on places near water-works for the supply of drinking water;
- (ii) prescribing a minimum width of wheel-tyres or a minimum diameter and the maximum wheel track of wheels for different classes of vehicles kept or used within the municipality;
- (iii) prescribing the manner in which notice of the intention to erect or re-erect a building shall be given to the Board;
- (iv) requiring that with every such notice shall be furnished a site plan of the land on which it is intended to erect or re-erect such building and a plan and specification of the building, all of such character and with such details as the bye-law may require in respect of all or any of the matters following, *viz.*—
 - (a) free passage or way in front of the building;
 - (b) space to be left about the building to secure free circulation of air and facilitate scavenging and for the prevention of fire;
 - (c) ventilation and the provision and, position of latrines, urinals, cess-pools or drains;

- (d) level and width of foundation, level of lowest floor, and the stability of the structure; and
- (e) the line of frontage with neighbouring buildings, if the building abuts on a road;
- (v) regulating in respect of the erection or re-erection of any building within the municipality or part thereof—
 - (a) the materials and method of construction to be used for external and party walls, roofs and floors;
 - (b) the materials and method of construction and position of fire places, chimneys, latrines, urinals, cess pools and drains;
 - (c) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
 - (d) the space to be left about the building to secure the free circulation of air and for the prevention of fire;
 - (e) the line of frontage where the building abuts on a road;
 - (f) the number and height of the storeys of which the building may consist;
 - (g) the means to be provided for egress from the building in case of fire; and
 - (h) any other matter affecting the ventilation or sanitation of the building;
- (vi) preventing the erection of buildings without adequate provisions being made for the laying out and location of roads;
- (vii) regulating the level, means of drainage, alignment and width of roads constructed by private persons;
- (viii) fixing, and from time to time varying, the number of persons who may occupy a building or part of a building, which is let in lodgings or which is situated within such congested areas as may be specified in the bye-law; or occupied by members of more than one family; and providing—
 - (a) for the registration and inspection of such buildings;
 - (b) for promoting cleanliness and ventilation in such buildings;
 - (c) for notice to be given and precautions to be taken in the case of any infectious or contagious disease breaking out in such buildings;
 - (d) in the case of hotel, serai and lodging-house keepers and secretaries of residential clubs, for the maintenance of registers, in such form as the Board may prescribe, of visitors and lodgers; and
 - (e) generally for the proper regulation of such buildings;
- (ix) regulating the use of, and the prevention of nuisances in regard to public water-supply, bathing and washing places, streams, channels, tanks and wells;
- (x) regulating, either by rendering licences necessary or otherwise, the washing of clothes by professional washermen, and fixing the places in which clothes may be so washed or in which they may not be so washed;
- (xi) prescribing the measures to be taken for the prevention of the breeding of mosquitoes in wells, tanks, pools, excavations, cisterns or other places or vessels containing or capable of containing water;
- (xii) regulating the cutting of trees and bamboos within the municipality;
- (xiii) defining the duties of persons employed in the removal of sewage within the municipality and required to take out licenses under section 209;
- (xiv) regulating the disposal of sewage, offensive matter, carcasses of animals and rubbish, and the construction and maintenance of latrines, urinals, cess-pools, drains, and sewers;
- (xv) providing for the inspection and regulation of markets and for the preparation and exhibition of a price list thereat;
- (xvi) regulating the sale or the manufacture, preparation, storage, or exposure for sale of any specified articles of food or drink either by rendering licenses necessary or otherwise;
- (xvii) regulating the hours and manner of transport within the municipality of any specified articles of food or drink;

- (xviii) fixing the places in which any specified article of food or drink may be sold or exposed for sale or the places in which it may not be sold or exposed for sale;
- (xix) regulating, either by rendering licenses necessary or otherwise, the import into the municipality for sale of milk and butter;
- (xx) regulating either by rendering licenses necessary or otherwise, or prohibiting, for the purpose of preventing danger to the public health, the stalling or herding of horses, cattle, swine, donkeys, sheep or goats, geese, ducks and fowls;
- (xxi) providing for the inspection of milch cattle, and prescribing the measures to be taken on the occurrence amongst them of infectious or contagious diseases; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage, and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairymen or milksellers;
- (xxii) providing for the inspection and proper regulation of encamping grounds, pounds, serais, bakeries and aerated-water factories, ice-factories, flour mills, oil mills, sweet meat shops, factories and other places in which mechanical power is employed, and slaughter-houses;
- (xxiia) preventing nuisances affecting the public health, safety, or conveniences in places of public resort for purposes of recreation or amusement;
- (xxiii) preventing nuisances affecting the public health, safety or convenience;
- (xxiv) providing for the guidance, discipline and conduct of the members of a volunteer firebrigade recognised by the Board;
- (xxv) regulating, either by rendering licences necessary or otherwise, the letting off of fire-arms, fire-works, fire-balloons or bombs;
- (xxvi) controlling and regulating the use and management of burial and burning grounds and the disposal of corpses;
- (xxvii) rendering licenses necessary for keeping dogs and prescribing the conditions of such licenses;
- (xxviii) prescribing the standard weights and measures to be used in the municipality and providing for the inspection of the same;
- (xxix) providing for the holding of fairs and industrial exhibitions within the municipality or under the control of the Board and for fixing and collecting the fees to be levied thereat;
- (xxx) fixing the conditions on which licenses under this Act are to be granted and may be suspended or revoked; and
- (xxxi) giving effect to the objects of this Act;

and may by such bye-laws impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of fifty rupees for each offence, and, in case of a continuing offence, a further penalty not exceeding twenty rupees for each day after written notice of the offence from the Board:

Provided that no person shall be punishable for breach of any bye-law made under clause (xvi) or clause (xviii) of this section by reason of the continuance of the sale or the manufacture, preparation, storage, or exposure for sale of any article in any premises which are at the time of the making of such bye-law used for such purpose until he has received from the Board six months' notice in writing to discontinue such sale or manufacture, preparation, storage, or exposure for sale in such premises.

298. Additional powers to make bye-laws in hill municipalities.—(1) The members of a municipality wholly or in part situated in a hilly tract may, at a meeting, in addition to such bye-laws as they may make under the last preceding section, make bye-laws for regulating or prohibiting the cutting or destroying of trees or shrubs or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Board to be necessary for any or all of the following purposes:—

- (a) the maintenance of a water-supply;
- (b) the preservation of the soil;
- (c) the prevention of landslips;
- (d) the formation of ravines or torrents;

(e) the protection of land against erosion or the deposit thereon of sand, gravel or stones;

(f) the protection of the beauty or general appearance of the municipality.

(2) The Board may, by any bye-law made under this section, declare that any person committing a breach of any such bye-law, or failing to comply with any notice issued thereunder, shall be liable to a fine which may extend to fifty rupees and to a further fine which may extend to twenty rupees for each day after conviction during which the offence is continued.

299. Confirmation of bye-laws.—(1) The power to make bye-law under this Act shall be subject to the condition of previous publication.

(2) No such bye-law shall come into force until it has been confirmed by the Local Government.

(3) The State Government may cancel their confirmation of any such bye-law, and thereupon the bye-law shall cease to have effect.

(4) In relation to bye-laws as respects standard weights, the powers of the State Government under this section shall be powers of the Central Government.

300. Publication of bye-laws.—Every bye-law shall, after confirmation, be published in the prescribed manner.

Subsidiary Rules

301. Power to make rules as to business and affairs.—(1) The Board at a meeting specially convened for the purpose may, by subsidiary rules consistent with this Act and with any rules made thereunder by the State Government, provide for—

(a) the time and place of their meetings and of the meetings of committees, the business to be transacted at such meetings, and the manner in which notice of such meetings shall be given;

(b) the conduct of proceedings at such meetings, the method of voting, the due record of all dissents and discussions, and the adjournment of such meetings;

(c) the custody of the common seal;

(d) **.....

(e) the division of duties among the Municipal Board, and the powers to be exercised by committees or members to whom particular duties are assigned;

(f) the persons by whom receipts shall be granted for money received under this Act;

(g) the duties, appointment, leave, fining, suspension, and removal of municipal officers and servants;

(h) the conditions under which pensions and gratuities may be granted and paid out of the municipal fund to their officers and servants;

(i) the creation and management of a provident fund or annuity fund for their officers and servants, the contribution by such officers and servants to such fund, the grant by the Board out of their fund to supplement such contributions, and the payment of moneys out of such provident fund;

(j) the appointment or election of the Chairman or Vice-Chairman of committees and the delegation of powers by the Board to committees;

(k) regulation of the expenditure of money for purposes provided for in the budget estimates;

(l) matters not specifically provided for in the Act, for the assessment, collection and refund of taxes imposed under the Act;

(m) the nature and amount of security to be furnished by different classes of officers or servants of the Board for the proper discharge of their duties; and

(n) other similar matters;

[and may, by such rules, annul, alter or add to all or any of the rules in the Fourth Schedule.]†

Provided that the rules made in respect of the matters specified in clauses (h) and (i) shall be made by the Board at a meeting by a resolution in favour of which not less than two-thirds of the members present at such meeting shall have voted.

(2) Rules made under this section consistent with the Act shall be subject to the sanction of the Local Government and shall, if sanctioned, be published in such manner as the State Government may direct and shall have the force of law.

†(3) The rules in the Fourth Schedule shall have effect as if enacted in the body of this Act until annulled or altered by rules made under sub-section (1).

CHAPTER X

PROCEDURE

Municipal Notices

302. How notice, etc., may be served.—Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person whom the same is addressed;

or be left at his usual place of abode with some adult male member or servant of his family;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode, or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served or may be sent by post in a registered cover.

303. Reasonable time for compliance to be fixed.—When any notice under this Act requires any act to be done for which no time is fixed by this Act, it shall fix a reasonable time for doing the same.

304. Service of notice on owner or occupied of land.—When any notice is required to be given to the owner or to the the occupier, or to the owner and the occupier of any land, such notice, addressed to the owner or occupier or both, as the case may require, may be served on the occupier of such land, or otherwise in the manner mentioned in section 302:

Provided that when the owner and his place of abode are known to the Board or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family; and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier or both is not known, it shall be sufficient to designate him or them as "the owner" or "the occupier" of the land in respect of which the notice is served.

Enforcement of requisitions.

305. Procedure when owners or occupiers are required to execute works by Board.—Whenever it is provided in this Act that the Board, or the Board at a meeting may require the owners or the occupiers, or the owners and occupiers, of any land, to execute any work or to do anything, such requisition shall be made as far as possible, by a notice to be served as provided in sections 302 and 304, on every owner or occupier who is required to execute such work or to do such thing; but if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notice to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers, of any land, to execute such work or to do such thing within a specified time; and in such notice it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that if they fail to comply with requisition or to prefer an objection against such requisition as provided in the next succeeding section, the Board will enter upon the land and cause the required work to be executed, or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

306. Persons required to execute any work may prefer objection to the Board.—Any person who is required by a requisition as aforesaid to execute any work or to do anything, may, instead of executing the work or doing the thing required, prefer an objection in writing to the Board against such requisition within five days of the service of the notice or posting up of the notification containing the requisition; or;

if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Except as provided in the next succeeding section such objection shall be heard and disposed of by the Chairman or Vice-Chairman.

307. Procedure if person objecting alleges that work will cost more than three hundred rupees.—If the objection shall allege that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the Board at a meeting; unless the Chairman or Vice-Chairman shall certify that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the Chairman and Vice-Chairman:

Provided that in any case in which the Chairman or Vice Chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the Chairman and Vice-Chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Board as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof, and the Board itself shall execute such work or do such thing, and shall exercise all powers necessary therefor.

308. Chairman, etc., to make order after hearing objection.—The Chairman or Vice-Chairman or the Board at a meeting, as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying, or making absolute the requisition against which the objection preferred; and if such order does not withdraw the requisition it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

309. Order to be explained orally.—If the person making such objection be present at the office of the Board, the said order shall be explained to him orally, and, if such order cannot be so explained, notice of such order shall be served as provided in section 302 on the person making the objection; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

310. Power of Board on failure of persons to execute works.—If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to execute the same to the satisfaction of the Board until it is completed, the Board or any person authorised by it in that behalf, may, after giving forty-eight hours' notice of its intention by a notification to be posted up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers, respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

311. Power to apportion expenses among owners and occupiers.—(1) Whenever any expenses incurred by the Board are to be paid by the owners of any land as provided in the last preceding section, the Board may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the Board may seem fit.

(2) And whenever any such expenses are to be paid by the occupiers of any land as provided in the last preceding section, the Board may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Board may seem fit.

312. Apportionment among owners and occupiers.—Whenever any expenses incurred by the Board are to be paid by the owners and occupiers of any land, as provided in section 310, the Board may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the Board may seem fit.

313. Occupier may recover cost of works executed at his expense from owner.—Whenever any works or alternations and improvements, of which the Board is

authorized by this Act to require the execution, are executed by the occupier on the requisition of the Board or are executed by the Board, and the cost thereof is recovered from the occupier, the cost thereof may, if the Board shall certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

314. Power to enter upon possession of houses so repaired.—If the Board, under the provisions of this Act, shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Board may enter upon possession of the same, and may retain possession thereof until the sum expended by it on the repairs be paid to it.

315. Sale of materials of houses, etc., pulled down.—The materials of anything which shall have been pulled down or removed under the provisions of section 305 may be sold by the Board, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Board or in a Court of competent jurisdiction.

Appeals

316. Appeals from orders of Board.—(1) Any person aggrieved—

- (a) by the refusal of the Board under section 168 to sanction the erection or re-erection of any building, or
- (a) by a notice from the Board under section 149 requiring a road to be drained, levelled, paved, flagged, metalled or provided a road to be means of lighting, or under section 171 requiring the alteration or demolition of a building, or
- (c) by any order made by the Board under bye-law made under section 297, clause (vi), or
- (d) by any order made by the Board under the powers conferred upon it by section 175 or 252,

may appeal within thirty days from the date of such refusal, notice or order to the Board, and every such appeal shall be heard and determined by not less than three members of the Board who shall be appointed in that behalf by the Board at a meeting, and no such refusal, notice or order shall be liable to be called in question otherwise than by such an appeal.

(2) The appellate authority may, for sufficient cause, extend the period allowed by sub-section (1) of this section for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from, shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the Board have had reasonable opportunity of being heard.

Prosecutions

317. Board may direct prosecution for public nuisance, etc.—The Board may direct any prosecution for any public nuisance under the Indian Penal Code, and may order proceedings to be taken for the recovery of any penalties under this Act (XLV of 1860), and for the punishment of any persons offending against the same, and may order the expense of such prosecution or other proceedings to be paid out of the municipal fund.

318. No prosecution for an offence under this Act to be instituted without consent of Board.—No prosecution for an offence under this Act or any bye-law made in pursuance thereof shall be instituted without the order or consent of the Board, and no such prosecution shall be instituted except within six months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be instituted within six months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman of the Board:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

319. Police officer to report offences and arrest persons refusing to give name and residence.—All police officers shall give immediate information to the Board of the municipality of any offence committed against this Act or any bye-law

made in pursuance thereof. When any person, in the presence of the police officer, commits or is accused of committing, any such offence, and refuses, on demand of a police officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained, and he shall within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Any servant of the Board in receipt of a salary of not less than ten rupees per mensem when empowered in that behalf on the recommendation of the Board by a general or special order of the District Magistrate, may exercise the powers of a police officer under this section.

Civil Suits.

320. No action to be brought against the Board or their officers until after one month's notice of cause of action.—No suit shall be brought against any Board or any of its officers, or any person acting under its direction for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board and also (if the suit is intended to be brought against any officer of the said Board or any person acting under its direction) at the place of abode of the person against whom such suit is threatened to be brought, stating the cause of suit, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person who intends to bring the suit;

and unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If the Board or its officers or any person to whom any such notice is given, shall, before the suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

321. Liability to pay expenses or fees may be contested in Civil Court.—Any owner or occupier of land may contest his liability to pay any expenses or fee under this Chapter or under Chapters VI and VII or may contest the amount which he has been called upon to pay in a Civil Court of competent jurisdiction:

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount in the manner provided by section 141.

322. Disputes as to compensation payable by Board.—(1) Should a dispute arise touching the amount of compensation which the Board is required by this Act to pay, it shall be settled in such manner as the parties may agree, or, in default of agreement, by the Deputy Commissioner or any officer authorised by him in this behalf upon application made to him by the Board or the person claiming compensation.

(2) Any decision of the Deputy Commissioner or the officer as aforesaid awarding compensation shall be subject to a right of the applicant for compensation to require a reference to the District Judge in accordance with the procedure set forth in section 18 of the Land Acquisition Act, 1894 (I of 1894).

(3) In cases in which compensation is claimed in respect of land, the Deputy Commissioner, or the officer as aforesaid and the District Judge shall, as far as may be, observe the procedure prescribed by the said Act for proceedings in respect of compensation for the acquisition of land acquired for public purposes.

CHAPTER XI

MISCELLANEOUS PROVISIONS

323. Delegation of certain powers and functions of Local Government.—(1) The powers and functions of the State Government specified in the third schedule may be delegated by the State Government to the Deputy Commissioner.

(2) In regard to powers or functions delegated to him under this section, the Deputy Commissioner shall have the same authority as is given by this Act to the

State Government, and the delegation shall continue until revoked by the State Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to all the municipalities, or it may be made particularly in regard to certain municipalities only.

(4) The delegation may be by name or by official designation, and shall, in each case, be notified in the official Gazette.

324. Survey of municipality.—The Board at a meeting may order that a survey shall be made of the lands situated in the municipality and thereupon all the provisions of the Calcutta Survey Act, 1887 (I of 1887), shall, so far as may be practicable, apply and be extended to such municipality.

325. Holder of license to produce it when required.—Every person to whom a license has been granted under this Act shall, at all reasonable times, while such license shall remain in force, if thereto required by the authorities which granted the license or by any person authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Whoever fails to produce his license when required to produce the same by any person authorised under this section to demand the production thereof, shall be liable to a fine not exceeding one hundred rupees.

326. Suspension or revocation of licenses, etc.—Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the bye-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend for any period not exceeding two months, any such license.

And the Board, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

327. Penalty on officers, etc., taking unauthorized fees.—If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code) (XLV of 1860) shall accept or obtain, or agree to accept or attempt to obtain, from any person for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Board or with any public servant or with any Government in the discharge of his official duties, he shall be punished with imprisonment, either simple or rigorous, as provided in section 53 of the Indian Penal Code (XLV of 1860), for a term which may extend to three years, or with a fine not exceeding five hundred rupees, or with both.

CHAPTER XII

SMALL TOWNS

328. Constitution of notified areas.—(1) The State Government may, by notification, signify its intention to declare that with respect to some or all of the matters upon which a municipal fund may be expended under section 52, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipality.

(2) A copy of the notification under sub-section (1) shall be published in such places as the State Government may by general or special order direct.

(3) Should any inhabitant of the specified area aforesaid desire to object to the notification issued under sub-section (1), he may, within six weeks from the date of its publication, submit his objection in writing to the State Government through the Deputy Commissioner, and the State Government shall take his objection into consideration.

(4) When six weeks from the date of publication have expired, and the State Government has considered and passed orders on such objections as may have been submitted to it, the State Government may, by notification, declare the specified area aforesaid or any portion thereof to be a notified area :

329. Constitution of town committee.—(1) There shall be established for each notified area a committee for the purposes of section 330, sub-section (1) (b) and (c), consisting of such number of members to be appointed or elected or partly so appointed and partly so elected in accordance with rules as the State Government may by notification direct.

(2) A committee established under this section shall be called a town committee.

(3) The State Government may appoint any person, whether a member of the town committee or not, to be its Chairman or Vice-Chairman, or may authorise any town committee to elect its Chairman or Vice-Chairman or both, and fix the term of office of member or Chairman or Vice-Chairman of the town committee.

330. Power of State Government to impose taxation and regulate expenditure of proceeds thereof.—(1) The State Government may—

(a) impose in any notified area any tax which could have been imposed therein if such area were a municipality;

[*Explanation.*—The words ‘any tax’ in the above clause shall be deemed to include all fees, tolls, cesses, rates and duties.]

(b) apply or adapt to the notified area for the assessment and recovery of any tax imposed under clause (a) any of the provisions of this Act, or of any rules for the time being in force, with respect to the assessment and recovery of any tax imposed under this Act;

(c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a) and of any other funds which may come to the hands of the town committee for the purposes of the notified area and for the preparation and maintenance of proper accounts; and [in addition to, or in lieu of, the exercise of any of the foregoing powers, may];

(d) extend to any notified area the provisions of any section of this Act subject to such restrictions and modifications, if any, as the State Government may think fit.

(2) *Application of Act to notified areas.*—The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

(3) For the purposes of any section of this Act which may be extended to a notified area, the town Committee constituted for such area under section 329 shall be deemed to be a Municipal Board under this Act and the area to be a municipality.

331. Application of funds of areas ceasing to be notified.—When by reason of any order cancelling a notification under section 328 any notified area ceases to be notified, the unexpended proceeds of any taxes levied therein under section 330 shall be applied for the benefit of the inhabitants of such area in such manner as the State Government may think fit.

THE FIRST SCHEDULE

(See Section 14.)

Municipality or Municipalities in which the State Government may direct that all the Members of the Municipal Board shall be appointed by the State Government, or that any proportion of the Members shall be so appointed and the remainder elected.

THE SECOND SCHEDULE

(See Section 24.)

Municipality or Municipalities in which the Chairman shall be appointed by the State Government.

THE THIRD SCHEDULE

(See Section 323.)

Section	Nature of power
1	2
17	to direct an <i>ex-office</i> Member shall cease to hold office ;
24	to approve election of Chairman ;
27	to approve removal of elected Chairman ;
32	to approve allowance to Chairman or Vice-Chairman ;
44	to fix limit for aggregate salaries, etc., paid to establishment ;
44	to sanction appointment, nomination and dismissal of paid Secretary, Health Officer and Assessor ;
51	{ to direct that municipal fund shall be kept otherwise than at the Government treasury ;
	{ to approve form of security for investing surplus funds ;
55	to reserve public property from vesting in the Board ;
56	to order public institutions to vest in the Board ;
61	{ to fix radius from standpipe beyond which water-tax shall not be levied ;
	{ to sanction variation of water-tax with distance of holdings from standpipe ;
120	to apportion license fees on carriages and animals used in more than one municipality ;
128	to apportion registration fees on carts used in more than one municipality ;
131	where two local authorities have contributed to cost of bridge, to adjust proceeds ;
225	to empower person to purchase sample of article of food for analysis ;
228	to empower person to apply for warrant to search for unwholesome food intended for sale ;
229	to empower person to inspect shops, etc., and seize unwholesome articles ;
241	to extend section 241 to municipality ;
246	to extend section 246 to municipality ;
259	to require municipality to provide for registration of births and deaths ;
260	to require municipality to appoint sub-registrar at burning-ghat or burial ground ;
328—331	to exercise the powers under Chapter XII regarding small towns.

†THE FOURTH SCHEDULE

(See Section 301.)

Business and procedure at first meetings.

(1) The first meeting of a Municipal Board after a general election shall be held on such date as the Commissioner may fix :

Provided that—

(a) Whenever he considers necessary, he may vary the original or any subsequent date so fixed ; and

(b) the date fixed for the meeting shall be notified in the gazette at least 15 clear days before the meeting.

(2) The Commissioner shall cause copies of the notification fixing the date of the first meeting as required by rule (1) to be sent to the members at least seven days before the meeting is held.

(3) The Magistrate shall appoint a member of the Board to preside at the meeting and may whenever he considers necessary vary the original or any subsequent order of appointment; provided always that the person appointed is not a candidate for the office of Chairman.

(4) The President shall first make the oath (or affirmation) prescribed by section 16 himself and then administer the oath (or affirmation) to the other members present whether there is a quorum or not.

(5) (1) The meeting shall thereupon proceed to elect, or request the Local Government to appoint, a Chairman:

Provided the quorum required by section 37(v) or the proviso to sub-section (2) of section 24 of the Act, as the case may be, is present.

(ii) If the quorum required by the proviso to sub-section (2) of section 24 is present, the motions, if any, for requesting the Local Government to appoint a Chairman shall first be disposed of; and if there are no such motions or if the motions are lost, the meeting shall proceed to elect a Chairman.

(iii) If the quorum required by section 37 (v) is present, but not the quorum required by the proviso to sub-section (2) of section 24, the meeting shall proceed immediately to the election of a Chairman.

(iv) If even the quorum required by section 37 (v) is not present, the meeting shall stand adjourned to some future date to be appointed by the President, who shall cause at least three days' notice of the adjourned meeting to be given to the members; the members present at the adjourned meeting shall form a quorum whatever their number may be and shall be competent to proceed either to elect, or to request the Local Government to appoint, a Chairman.

(6) At any time before noon of the day preceding the date fixed for the meeting under rule (1) any member may nominate any other member, not being an officer of Government appointed under sub-section (3) of section 10 of the Act, for election as Chairman, by delivering to the Magistrate or to any other officer appointed by the Magistrate in this behalf a nomination paper signed by himself as proposer and by a third member as seconder and stating—

(a) the name of the member nominated, and

(b) that the proposer has ascertained that such person is willing to serve as Chairman if elected.

(7) If and when the meeting proceeds to elect a Chairman the President shall read out to the Board the names of the members who have been duly nominated together with those of their proposers and seconders, and if only one member has been so nominated, shall declare that member to be elected; if more than one member has been so nominated the meeting shall proceed to elect a Chairman by ballot.

(8) Where more than two candidates have been nominated and at the first ballot no candidate obtains more votes than the aggregate votes obtained by the other candidates, the candidate who has obtained the smallest number of votes shall be excluded from the election and balloting shall proceed, the candidate obtaining the smallest number of votes at each ballot being excluded from the election until one candidate obtains more votes than the remaining candidate or than the aggregate votes of the remaining candidates as the case may be.

(9) Where at any ballot any of three or more candidates obtain an equal number of votes and one of them has to be excluded from the election under rule (8) the determination as between the candidates whose votes are equal of the candidate who is to be excluded shall be by the drawing of lots.

(10) In these rules,

“Magistrate” means

(a) in the case of a municipality in a subdivision, the Subdivisional Magistrate, and

(b) in other cases, the District Magistrate.

New Delhi, the 12th January 1952

S.R.O. 148.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950) the Central Government hereby extends to the State of Vindhya Pradesh the United Provinces Opium Smoking Act, 1934 (United Provinces Act III of 1934) as at present in force in the State of Uttar Pradesh subject to the modifications specified below:—

Modifications

Throughout the Act—

1. (i) for the words "Uttar Pradesh" wherever they occur except in the title, preamble or citation, the words "State of Vindhya Pradesh" shall be substituted.

(ii) for the words "State Government", the words "Chief Commissioner" shall be substituted.

(iii) for the word "Collector" the words "Deputy Commissioner" shall be substituted.

2. For sub-section (3) of section 1, the following sub-section shall be substituted, namely:—

"(3) It shall come into force on the expiry of two months from the date of publication of this notification in the gazette".

3. In section 2—

(i) for clause (4) the following clause shall be substituted, namely:—

"(4) "Deputy Commissioner" means the Chief Officer-in-Charge of the Revenue Administration of a district and includes the Additional Deputy Commissioner".

(ii) for clause (6) the following clause shall be substituted, namely:—

"(6) "Excise Commissioner" means the Chief Excise Officer as defined in sub-section (4) of section 3 of the Rewa Excise Act, 1921."

(iii) for clause (7) the following clause shall be substituted, namely:—

"(7) "Officer of the Excise Department" means the Excise Commissioner, or an officer or such persons as may be appointed in the Excise Department to be officers for the collection of the excise revenue, for carrying out all or any of the provisions of the Rewa Excise Act, 1921."

Annexure

The United Provinces Opium Smoking Act, 1934 (United Provinces Act II of 1834) as amended by this notification.

THE UNITED PROVINCES OPIUM SMOKING ACT, 1934.

UNITED PROVINCES ACT NO. III OF 1934.

An Act to amend the law relating to Opium Smoking in the United Provinces.

WHEREAS it is expedient to amend the law relating to opium smoking in the United Provinces with a view to make provision for the registration of persons who are opium smokers and to secure the ultimate prohibition of opium smoking in the United Provinces.

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80-A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. Short title extent and commencement.—(1) This Act may be called the United Provinces Opium Smoking Act, 1934.

(2) It extends to the whole of the State of Vindhya Pradesh.

"(3) It shall come into force on the expiry of two months from the date of publication of this notification in the gazette".

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context:

(1) *Opium.*—"Opium" has the same meaning as in the Opium Act, 1878;

- (2) *Prepared Opium*.—"Prepared opium" means any product of opium obtained by any operation or series of operations designed to transform opium into an extract suitable for smoking, and includes chandu, madak and the dross or other residue remaining after opium is smoked.
- (3) *Place*.—"Place" includes a building, house, shop, booth, tent, vessel, raft and vehicle and any part thereof;
- (4) *Deputy Commissioner*.—"Deputy Commissioner" means the Chief Officer-in-Charge of the Revenue Administration of a district and includes the Additional Deputy Commissioner;
- (5) *Magistrate*.—"Magistrate" means a Magistrate of the first class or a "Magistrate of the 2nd class" specially empowered by the Chief Commissioner to try cases under this Act;
- (6) *Excise Commissioner*.—"Excise Commissioner" means the Chief Excise Officer as defined in sub-section (4) of section 3 of the Rewa Excise Act, 1921;
- (7) *Officer of the Excise Department*.—"Officer of the Excise Department" means the Excise Commissioner, or an officer or such persons as may be appointed in the Excise Department to be officers for the collection of the excise revenue, for carrying out all or any of the provisions of the Rewa Excise Act, 1921;
- (8) *Notification*.—"Notification" means a notification published in the Gazette; and
- (9) *Registered Smoker*.—"Registered smoker" means a person registered under the provisions of this Act as a smoker of prepared opium.

CHAPTER II

PROHIBITION AND CONTROL

3. Register of smokers.—(1) The Chief Commissioner shall cause a register to be prepared of persons who are not under the age of twenty-five years and who are in the habit of smoking prepared opium.

2. Such register shall be prepared by such authority and in such manner as the Chief Commissioner may, by rules made under this Act, prescribe, and shall contain such particulars and shall be in such form as the Excise Commissioner may by notification prescribe.

(3) Such register shall be closed on a date to be fixed and notified in the Gazette by the Chief Commissioner and, subject to such exceptions as the Chief Commissioner may by notification prescribe, no fresh entry shall be made therein after such date.

(4) All persons who are eligible for being registered under this Act as smokers of prepared opium shall, up to the date fixed for closing the entries in the register be considered as registered smokers, whether their names are actually entered in the register or not.

4. Smoking prepared opium by unregistered smoker.—(1) No person, not being a registered smoker, shall smoke or manufacture or possess prepared opium in any quantity whatsoever.

(2) *Manufacture and possession by registered smoker*—No registered smoker shall have in his possession, or shall manufacture, at any one time, prepared opium in excess of half a tola in weight or such other lesser quantity as the Chief Commissioner may by rule made under this Act, prescribe:

Provided that in no case shall a registered smoker manufacture any prepared opium from opium obtained otherwise than in accordance with rules made under section 5 of the Opium Act, 1878, and no registered smoker shall have in his possession any quantity of prepared opium so manufacture.

(3) *Assistance in the manufacture of prepared opium*.—No person shall assist another, whether a registered opium smoker or not, in the manufacture of prepared opium.

5. Presumption of smoking prepared opium in certain cases.—If any person, not being a registered smoker, is found in possession of prepared opium or any apparatus used for smoking of, or in the manufacture of, prepared opium, it shall be presumed, until the contrary is proved, that such person smokes prepared opium.

6. Sale of prepared opium.—No person shall sell, or expose or offer for sale, or attempt to sell, prepared opium.

7. Opium smoking assembly.—An assembly of two or more persons, whether registered smokers or not, is designated an opium smoking assembly if the common object of such persons is to smoke or manufacture prepared opium.

Explanation.—An assembly which was not an opium smoking assembly when it assembled may subsequently become such an assembly.

8. Member of opium smoking assembly.—Whoever being aware of facts which render an assembly an opium smoking assembly, joins that assembly or continues therein, is said to be a member of that assembly.

9. Presumption raised by presence of opium and opium smoking apparatus.—The presence of any prepared opium or of any pipes or apparatus for the smoking of prepared opium or of any apparatus used in the manufacture of prepared opium in any place where two or more persons, whether registered smokers or not are assembled shall be held sufficient to raise a presumption that such persons have assembled at such place with the common object of smoking or of manufacturing prepared opium.

10. Power to make rules.—(1) The Chief Commissioner may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), such rules may—

- (a) prescribe the authority by whom, and the manner in which, the register referred to in section 3 shall be prepared and maintained;
- (b) regulate the conditions and restrictions subject to which a registered smoker may manufacture, possess or smoke prepared opium;
- (c) prescribe the conditions under which and the authority by whom the name of a registered smoker may be removed from the register;
- (d) regulate the disposal of things confiscated under this Act; and
- (e) prescribe and regulate the payment of rewards out of fines imposed under this Act.

(3) The power conferred by this section for making rules is subject to the condition that the rules be made after previous publication: Provided that any such rules may be made without previous publication if the Chief Commissioner considers that they should be brought into force at once.

11. Any registered smoker who does not comply with the conditions and observe the restrictions prescribed by rules made under this Act, shall, in addition to the penalties hereinafter prescribed, be liable to have his name removed from the register of smokers.

CHAPTER III

PENALTIES

12. For smoking by unregistered smoker.—Whoever, not being a registered smoker, smokes prepared opium shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

13. For unauthorized manufacture or possession of prepared opium.—Whoever, in contravention of section 4, manufactures or has in his possession prepared opium or assists any other person in the manufacture of prepared opium, shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

14. For being member of an opium smoking assembly.—Whoever is a member of an opium smoking assembly shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

15. For keeping or having charge of place used for smoking prepared opium.—Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purposes of an opium smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

16. For selling prepared opium.—Whoever sells, or exposes or offers for sale, or attempts to sell, prepared opium shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

17. For abetment of offences.—Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment, and not withstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for such offence.

18. Enhanced punishment after previous conviction.—Whoever, having been previously convicted of an offence under this Act, is again convicted of an offence under this Act, shall be liable for such subsequent offence to twice the punishment which might be imposed on a first conviction:

Provided that in the case of a third or subsequent conviction, the offender shall be sentenced to imprisonment with or without fine.

CHAPTER IV

PROCEDURE

19. Search warrant and power to search.—If a Magistrate, upon information received and after such enquiry (if any) as he considers necessary, has reason to believe that any place is used for the commission of an offence under this Act, he may issue a warrant to an officer of the Excise Department not below such rank as the Chief Commissioner may prescribe authorizing him—

- (a) to enter such place by day or by night with any persons whose assistance such officer may consider necessary;
- (b) to search all or parts of such place in which such officer has reason to believe that any prepared opium or any apparatus for the manufacture of prepared opium or for smoking prepared opium is concealed and all or any persons whom he may find in such place;
- (c) to arrest any person found in such place whom he has reason to believe to be guilty of an offence under this Act; and
- (d) to seize all prepared opium, apparatus for smoking prepared opium or for the manufacture of prepared opium and any other article used for the commission of an offence under this Act, which may be found in such place.

20. Applicability of the Code of Criminal Procedure, 1898, to warrant and search.—The provisions of the Code of Criminal Procedure, 1898, as amended, shall apply, as far as may be, to the execution of warrants issued and searches made under this Act.

21. Report to be made in case of arrest or seizure.—Whenever any officer makes any arrest or seizure under this Act, he shall within twenty-four hours next after such arrest or seizure, make a full report of all particulars thereof to his immediate official superior; and every person arrested and every article seized shall be forwarded without delay to the officer by whom the warrant was issued or to the nearest police station.

22. Bail and security.—When any person arrested under this Act is prepared to furnish bail, he shall be released on bail, or at the discretion of the officer making the arrest, on his personal bond.

23. Aid to officers of Excise Department.—Every officer of the Police and Land Revenue Departments, every village headman and every village chaukidar shall, upon notice given or request made to him be bound to give reasonable aid to any officer of the Excise Department in carrying out the provisions of this Act.

24. Confiscation and destruction of prepared opium and things seized.—On the conviction of any person for an offence under this Act, the court may order that any prepared opium or any instrument or apparatus in respect of, or by means of, which such offence has been committed or any receptacle, package or covering in which such prepared opium, instrument, or apparatus was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

25. Cognizance of offences.—No Magistrate shall take cognizance of an offence punishable under this Act except on the complaint or report of the Deputy Commissioner or an officer of the Excise Department not below the rank of an Excise Inspector.

CHAPTER V

MISCELLANEOUS

26. Bar of certain suits.—No suit shall lie in any Civil Court against the Secretary of State for India in Council or a Deputy Commissioner or any officer

of the Excise Department for damages for any act in good faith done or ordered to be done in pursuance of this Act.

27. Limitation of suit and prosecution.—No Civil Court shall try any suit against the Secretary of State for India in Council or a Deputy Commissioner or any officer of the Excise Department in respect of anything done in pursuance of this Act and except with the previous sanction of the Chief Commissioner no Magistrate shall take cognizance of any charge made against any person under this Act, unless the suit or prosecution is instituted within six months after the date of the act complained of.

28. Tender of pardon to accused person turning approver.—(1) Whenever two or more persons are prosecuted for any offence under this Act, the Magistrate may, if, for reasons to be recorded by him, he thinks fit, tender to any such person a pardon on condition of his making a full and true disclosures of all facts connected with the offence.

(2) Such person shall become a competent witness in the case and will not be liable to punishment for such offence so long as such pardon remains.

29. Saving of the Dangerous Drugs Act, 1930.—Nothing in this Act or in the rules made under this Act shall affect the validity of the Dangerous Drugs Act, 1930, or of any rule made thereunder which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by, or under, this Act, on the consumption of, or traffic in, prepared opium within India.

[No. 11-J.]

S.R.O. 149.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Kutch, the United Provinces Opium Smoking Act, 1934, (United Provinces Act III of 1934), as at present in force in the State of Uttar Pradesh subject to the following modifications, namely:—

Modifications

1. Throughout the Act—

(i) for the words "State Government" the words "Chief Commissioner" shall be substituted;

(ii) for the words "Uttar Pradesh" wherever they occur except in the title, preamble or citation, the words "State of Kutch" shall be substituted;

(iii) for the words "Excise Commissioner" the words "Collector of Kutch" shall be substituted;

2. In sub-section (3) of section 1, the words "and on and from that date the United Provinces Opium Smoking Act, 1925 shall be repealed" shall be omitted.

3. Clauses (4), (6) and (7) of section 2 shall be omitted.

4. In sections 19 and 27, the words "of the Excise Department" shall be omitted.

5. For section 23 the following section shall be substituted namely:—

"23. Every officer of the Revenue Department, every Police of Revenue Patel and every village chowkidar shall upon notice given or request made to him be bound to give reasonable aid to any officer carrying out the provisions of this Act".

6. In section 25, for the words "of the Excise Department not below the rank of an Excise Inspector" the words "not below the rank of a Mahalkari or a Sub-Inspector of Police" shall be substituted.

7. For section 26 the following section shall be substituted, namely:—

"26. No suit shall lie in any Civil Court against the Government or any officer for damages for any act in good faith done or ordered to be done in pursuance of this Act".

8. For section 27, the following section shall be substituted, namely:—

"27. No civil Court shall try any suit against the Government or any of its officers in respect of anything done in pursuance of this Act and except with the previous sanction of the Chief Commissioner no Magistrate shall take cognizance of any charge made against any officer under this Act unless the suit or prosecution is instituted within six months after the date of the act complained of".

Annexure

The United Provinces Opium Smoking Act, 1934 (United Provinces Act III of 1934) as amended by this notification.

THE UNITED PROVINCES OPIUM SMOKING ACT, 1934.

UNITED PROVINCES ACT No. III of 1934

An Act to amend the law relating to opium Smoking in the United Provinces.

WHEREAS it is expedient to amend the law relating to opium smoking in the United Provinces with a view to make provision for the registration of persons who are opium smokers and to secure the ultimate prohibition of opium smoking in the United Provinces.

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80-A of the Government of India Act to the passing of this Act;

It is hereby enacted as follows:

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the United Provinces Opium Smoking Act, 1934.

(2) It extends to the whole of the State of Kutch.

(3) It shall come into force on such date as the Chief Commissioner may, by notification, appoint on this behalf.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context:

(1) *Opium*.—"Opium" has the same meaning as in the Opium Act, 1878;

(2) *Prepared opium*.—"Prepared opium" means any product of opium obtained by any operation or series of operations designed to transform opium into an extract suitable for smoking, and includes chandu, madak and the dross or other residue remaining after opium is smoked.

(3) *Place*.—"Place" includes a building, house, shop, booth, tent, vessel, raft and vehicle and any part thereof;

(4) *Magistrate*.—"Magistrate" means a Magistrate of the first class or a "Magistrate of the 2nd class" specially empowered by the local Government to try cases under this Act;

(5) *Notification*.—"Notification" means a notification published in the Gazette; and

(6) *Registered Smoker*.—"Registered smoker" means a person registered under the provisions of this Act as a smoker of prepared opium.

CHAPTER II

PROHIBITION AND CONTROL

3. Register of smokers.—(1) The Chief Commissioner shall cause a register to be prepared of persons who are not under the age of twenty-five years and who are in the habit of smoking prepared opium.

(2) Such register shall be prepared by such authority and in such manner as the Chief Commissioner may, by rules made under this Act, prescribe, and shall contain such particulars and shall be in such form as the Collector of Kutch may by notification prescribe.

(3) Such register shall be closed on a date to be fixed and notified in the Gazette by the Chief Commissioner and, subject to such exceptions as the Chief Commissioner may by notification prescribe, no fresh entry shall be made therein after such date.

(4) All persons who are eligible for being registered under this Act as smokers of prepared opium shall, up to the date fixed for closing the entries in the register be considered as registered smokers, whether their names are actually entered in the register or not.

4. Smoking prepared opium by unregistered smoker.—(1) No person, not being a registered smoker, shall smoke or manufacture or possess prepared opium in any quantity whatsoever.

(2) *Manufacture and possession by registered smoker.*—No registered smoker shall have in his possession, or shall manufacture, at any one time, prepared opium

in excess of half a tola in weight or such other lesser quantity as the Chief Commissioner may by rule made under this Act, prescribe:

Provided that in no case shall a registered smoker manufacture any prepared opium from opium obtained otherwise than in accordance with rules made under section 5 of the Opium Act, 1878, and no registered smoker shall have in his possession any quantity of prepared opium so manufactured.

(3) *Assistance in the manufacture of prepared opium.*—No person shall assist another, whether a registered opium smoker or not, in the manufacture of prepared opium.

5. *Presumption of smoking prepared opium in certain cases.*—If any person, not being a registered smoker, is found in possession of prepared opium or any apparatus used for smoking of, or in the manufacture of, prepared opium, it shall be presumed, until the contrary is proved, that such person smokes prepared opium.

6. *Sale of prepared opium.*—No person shall sell, or expose or offer for sale, or attempt to sell, prepared opium.

7. *Opium smoking assembly.*—An assembly of two or more persons, whether registered smokers or not, is designated an opium smoking assembly if the common object of such persons is to smoke or manufacture prepared opium.

Explanation.—An assembly which was not an opium smoking assembly when it assembled may subsequently become such an assembly.

8. *Member of opium smoking assembly.*—Whoever being aware of facts which render an assembly an opium smoking assembly, joins that assembly or continues therein, is said to be a member of that assembly.

9. *Presumption raised by presence of opium and opium smoking apparatus.*—The presence of any prepared opium or of any pipes or apparatus for the smoking of prepared opium or of any apparatus used in the manufacture of prepared opium in any place where two or more persons, whether registered smokers or not are assembled shall be held sufficient to raise a presumption that such persons have assembled at such place with the common object of smoking or of manufacturing prepared opium.

10. *Power to make rules.*—(1) The Chief Commissioner may, by notification, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), such rules may—

- (a) prescribe the authority by whom, and the manner in which, the register referred to in section 3 shall be prepared and maintained;
- (b) regulate the conditions and restrictions subject to which a registered smoker may manufacture, possess or smoke prepared opium;
- (c) prescribe the conditions under which and the authority by whom the name of a registered smoker may be removed from the register;
- (d) regulate the disposal of things confiscated under this Act; and
- (e) prescribe and regulate the payment of rewards out of fines imposed under this Act.

(3) The power conferred by this section for making rules is subject to the condition that the rules be made after previous publication: Provided that any such rules may be made without previous publication if the Chief Commissioner considers that they should be brought into force at once.

11. Any registered smoker who does not comply with the conditions and observe the restrictions prescribed by rules made under this Act, shall, in addition to the penalties hereinafter prescribed, be liable to have his name removed from the register of smokers.

CHAPTER III

PENALTIES

12. *For smoking by unregistered smoker.*—Whoever, not being a registered smoker, smokes prepared opium shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

13. *For unauthorized manufacture or possession of prepared opium.*—Whoever, in contravention of section 4, manufactures or has in his possession prepared opium

or assists any other person in the manufacture of prepared opium, shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

14. For being member of an opium smoking assembly.—Whoever is a member of an opium smoking assembly shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees, or with both.

15. For keeping or having charge of place used for smoking prepared opium.—Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purposes of an opium smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid, shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

16. For selling prepared opium.—Whoever sells, or exposes or offers for sale or attempts to sell, prepared opium shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees, or with both.

17. For abetment of offences.—Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for such offence.

18. Enhanced punishment after previous conviction.—Whoever, having been previously convicted of an offence under this Act, is again convicted of an offence under this Act, shall be liable for such subsequent offence to twice the punishment which might be imposed on a first conviction:

Provided that in the case of a third or subsequent conviction, the offender shall be sentenced to imprisonment with or without fine.

CHAPTER IV

PROCEDURE

19. Search warrant and power to search.—If a Magistrate, upon information received and after such enquiry (if any) as he considers necessary, has reason to believe that any place is used for the commission of an offence under this Act, he may issue a warrant to an officer not below such rank as the Chief Commissioner may prescribe authorizing him—

- (a) to enter such place by day or by night with any persons whose assistance such officer may consider necessary;
- (b) to search all or parts of such place in which such officer has reason to believe that any prepared opium or any apparatus for the manufacture of prepared opium or for smoking prepared opium is concealed and all or any persons whom he may find in such place;
- (c) to arrest any person found in such place whom he has reason to believe to be guilty of an offence under this Act; and
- (d) to seize all prepared opium, apparatus for smoking prepared opium or for the manufacture of prepared opium and any other articles used for the commission of an offence under this Act, which may be found in such place.

20. Applicability of the Code of Criminal Procedure, 1898, to warrant and search.—The provisions of the Code of Criminal Procedure, 1898, as amended, shall apply, as far as may be, to the execution of warrants issued and searches made under this Act.

21. Report to be made in case of arrest or seizure.—Whenever any officer makes any arrest or seizure under this Act, he shall within twenty-four hours next after such arrest or seizure, make a full report of all particulars thereof to his immediate official superior; and every person arrested and every article seized shall be forwarded without delay to the officer by whom the warrant was issued or to the nearest police station.

22. Bail and security.—When any person arrested under this Act is prepared to furnish bail, he shall be released on bail, or at the discretion of the officer making the arrest, on his personal bond.

23. Aid to officers.—Every officer of the Revenue Department, every Police or Revenue Patel and every village chowkidar shall upon notice given or request

made to him be bound to give reasonable aid to any officer carrying out the provisions of this Act.

24. Confiscation and destruction of prepared opium and things seized.—On the conviction of any person for an offence under this Act, the court may order that any prepared opium or any instrument or apparatus in respect of, or by means of which such offence has been committed or any receptacle, package or covering in which such prepared opium, instrument, or apparatus was found and any other contents of such receptacle, package or covering shall be confiscated or destroyed.

25. Cognizance of offences.—No Magistrate shall take cognizance of an offence punishable under this Act except on the complaint or report of the Collector or an officer, not below the rank of a Mahalkari or a Sub-Inspector of Police.

CHAPTER V

MISCELLANEOUS

26. Bar of certain suits.—No suit shall lie in any Civil Court against the Government or any officer for damages for any act in good faith done or ordered to be done in pursuance of this Act.

27. Limitation of suit and prosecution.—No Civil Court shall try any suit against the Government or any of its officers in respect of anything done in pursuance of this Act and except with the previous sanction of the Chief Commissioner no Magistrate shall take cognizance of any charge made against any officer under this Act unless the suit or prosecution is instituted within six months after the date of the act complained of.

28. Tender of pardon to accused person turning approver.—(1) Whenever two or more persons are prosecuted for any offence under this Act, the Magistrate may, if, for reasons to be recorded by him, he thinks fit, tender to any such person a pardon on condition of his making a full and true disclosures of all facts connected with the offence.

(2) Such person shall become a competent witness in the case and will not be liable to punishment for such offence so long as such pardon remains.

29. Saving of the Dangerous Drugs Act, 1930.—Nothing in this Act or in the rules made under this Act shall affect the validity of the Dangerous Drugs Act, 1930, or of any rule made thereunder which imposes any restriction not imposed by or under this Act, or imposes a restriction greater in degree than a corresponding restriction imposed by, or under, this Act, on the consumption of, or traffic in, prepared opium within India.

[No. 12-J.]

A N. SACHDEV, Under Secy.